



**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.13415 OF 2019

Saiyed Gaus s/o Saiyed Pasha ... **PETITIONER**

VERSUS

The State of Maharashtra & anr. ... **RESPONDENTS**

.....
Mr. Taher Ali Quadri, Advocate for petitioner
Mr. S.D. Ghayal, A.G.P. for State
.....

**CORAM : R.G. AVACHAT AND
ABASAHEB D. SHINDE, JJ.**

DATE : 19th NOVEMBER, 2025

ORDER :

Heard. Vide order dated 23/8/2018, passed by the Maharashtra Administrative Tribunal, Bench at Aurangabad in Original Application No.421/2015, the petitioner was granted deemed date of promotion in the cadre of Senior Clerk. He has, however, been denied relief of back-wages for the period from the deemed date of promotion to the date of his actual officiating on the promotional post of Senior Clerk. The reason

behind not granting such relief to the petitioner was the principle, “No work no pay”.

2. The learned A.G.P. reiterated the reasons given by the Tribunal for declining the petitioner the relief of back-wages. He also adverted our attention to the affidavit-in-reply filed on behalf of respondent No.2, wherein the same stand has been reiterated.

3. After having considered the case of the petitioner, we found it was no fault of the petitioner on account of which he did not work on the post of Senior Clerk. Admittedly, the order granting him deemed date of promotion has attained finality. Those who had in fact been promoted along with the petitioner w.e.f. 18/8/2009 must have been getting the pay of the promotional post of Senior Clerk. In this factual scenario, the learned counsel for the petitioner was justified in relying on the judgment of the Apex Court in case of **Ramesh Kumar Vs. Union of India & ors. (2015) AIR (SC) 2904**, wherein it has been observed thus :

“Denial of pay and allowances – Challenge in appeal is the order of the High Court, whereby the High Court dismissed the writ petition filed against the order of denial of pay and allowances to the appellant for the period from ... till the date of his actual promotion and also the order dismissing the Review Application – Even in the absence of statutory provision, normal rule is “no work no pay”. In appropriate cases, a Court of law may take into account all the facts in their entirety and pass an appropriate order in consonance with law. The principle of “no work no pay” would not be attracted where the respondents were in fault in not considering the case of the appellant for promotion and not allowing the appellant to work on a post of Naib Subedar carrying higher pay scale. In the facts of the present case when the appellant was granted promotion with the ante-dated seniority and maintaining his seniority along with his batchmates, it would be unjust to deny him higher pay and allowances in the promotional position of Naib Subedar.”

4. Since it was not the fault of the petitioner, and when others who were promoted along with him w.e.f. 18/8/2009 and were paid the salary of the promotional post, and in view of the observations of the Apex Court in case of Ramesh Kumar (supra), we are inclined to grant the petitioner relief of back-wages for the period from 18/8/2009 to the date of 1/1/2011. In that view of the matter, the Writ Petition is allowed in terms of prayer clause (B). Needless to mention, the difference of salary of the post of Junior Clerk and the post

of Senior Clerk shall only be paid to the petitioner for the aforesaid period within a period of two months from the date of receipt of copy of this order, failing which the amount shall carry interest @ 6% p.a. from the date of this order till the date of actual payment.

(ABASAHEB D. SHINDE, J.)

(R.G. AVACHAT, J.)

fmp/-