

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 655 OF 2024

Beena Kamalavijayan. ... Petitioner
Versus
Hyderabad Sind National
Collegiate Board & Ors. ... Respondents.

Mr. C.R.Sadasivan, for the Petitioner.

Mr. Aseem Naphade, a/w. Ms. Riya Thakkar i/b. Mr. Tushar Goradia, for
Respondent Nos. 1 and 2.

Mr. Mohit Jadhav, Addl. G.P. with Mr. Prashant Kamble, AGP for
Respondent No. 3.

**CORAM : RAVINDRA V. GHUGE AND
ASHWIN D. BHOBE, JJ.**

DATE : 4th FEBRUARY, 2025

P.C. :

1. The issue is as regards whether the Petitioner is entitled for
91 days leave encashment.

2. We have considered the submissions of the learned
Advocates appearing on behalf of the Petitioner and the Respondent
Management and the learned AGP on behalf of the State Respondent
Nos. 3 and 4.

3. We find that there are several disputed issues arising out of the claim of the Petitioner and the stand of the Management, which can be summarized as under :

- (a) Whether the Petitioner was absent from duties for a period of 330 days ?
- (b) Whether the Petitioner was entitled to work from home during the COVID Pandemic Lock down ?
- (c) Whether the directions of the Management that each employee should mark physical attendance in the college, only once in a week during the Lock down ?
- (d) Whether the Petitioner did not mark her presence as directed by the Management resulting in purported absence of 330 days ?
- (e) Whether the Petitioner had responded to the specific warning letter dated 30th March, 2021 calling upon her to mark her presence at least once in a week ?

4. Considering the above, the issue as regards recovery of unpaid amounts from the private employer by exercising Writ jurisdiction of the High Court. is a matter of circumspection. The

Hon'ble Supreme Court has laid down law in *Assistant Commissioner (CT) Ltd. Kakinada & Ors. v/s. M/s. Glaxo Smith Kline Consumer Health Care Ltd., [AIR 2020 SC 2819]*, that the disputed questions should not be gone into by the High Court.

5. We have perused Section 79 of the Maharashtra Public Universities Act which permits an employee to raise a dispute not falling within the jurisdiction of the University Tribunal, before the Grievance Committee. The present Petitioner who has retired from the employment, has raised an issue pertaining to services rendered with the Respondent Management and such a dispute touching the employment/service benefits of the Petitioner, can be looked into by the Grievance Committee in the absence of a specific exclusion provision under the Maharashtra Public Universities Act.

6. In view of the above, this **Writ Petition is disposed off** with liberty to the Petitioner to avail of the aforesaid remedy. All contentions of the litigating parties are kept open.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)