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REAPPOINTMENT AFTER TERMINATION TO BE CONSIDERED AFRESH FOR PENSION CALCULATIONS

The Bombay High Court (**HC**), in the *V. N. Madhu* case,¹ held on April 17, 2025, that appointment that is made in not in compliance with law would not be considered for the purpose of computing pension benefits. Only the tenure from re-appointment made in due compliance with the law would be considered.

Brief Facts

V.N. Madhu (**Madhu**) was appointed in 1986 as a temporary Assistant Teacher in Bhavan's Somani College, Mumbai.²

His³ services were terminated in 1987. He challenged this before the Mumbai School Tribunal (**MST**), which refused to interfere with the termination order.

He then preferred a writ petition in 1988 (**First WP**) before the HC.⁴ During pendency of the WP, in 1989, he was appointed as Assistant Teacher⁵ by S.S. & L.S. Patkar-Varde College (**Patkar College**). The HC dismissed Madhu's contention and Patkar College terminated his service in 1997. In 1998, appointed Madhu as Assistant Teacher by Patkar College.

He retired in 2017 from Patkar College and demanded that his service from 1989 in Somani College be considered for the purpose of computing his pension and gratuity benefits. The Government of Maharashtra rejected his demands.

He filed another Writ Petition 2020 before the HC (**Second WP**) challenging the denial.

¹ *Dr. V.N. Madhu v. S.S. & L.S. Patkar-Varde College & Ors.*, 2025 LiveLaw (Bom) 163.

² Madhu was an open category candidate appointed for a reserved vacancy.

³ The Judgement, in certain places, has referred Madhu as female. This Connect refers to Madhu as male for the purpose of consistency.

⁴ By Writ Petition No. 176 of 1988, later renumbered as Writ Petition No. 4377 of 1997.

⁵ Madhu was appointed under the general category.

Madhu's Contentions

Madhu had worked in the same position under the same employer from 1989, with only a few months' break in service between 1997 and 1998. The HC should condone such a minor break in service.

Madhu relied on Rule 30 of the Maharashtra Civil Services (Pension) Rules, 1982⁶ (**MCSR**); that he was permanent employee at the time of his retirement; and for his pension benefits his tenure of service from the day he was appointed in 1989 should be considered.

College's Contentions

Madhu's termination was upheld by the HC in the First WP and had not ordered his further re-instatement. Therefore, 1998 appointment was made afresh. This establishes that his services prior to 1998 (held invalid by the First WP) would not be considered for the purposes of determining his pension and gratuity benefits under Rule 30 of the MCSR.

HC's Judgement & Reasoning

HC, on perusal of its orders in the First WP, reiterated that Madhu's appointment from 1998 should be considered as fresh appointment.⁷ Rule 30 of the MCSR would not be applicable as his previous appointment was not made in due compliance with the law and therefore would not qualify as 'service' for the purpose of calculating pension and gratuity.⁸

It dismissed the Second WP.⁹

This *Counselence Connect* contains information in a nutshell on a recent change in law.

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⁶ As per Rule 30, qualifying service of a government servant shall be considered from the date he is appointed to the post temporarily or permanently provided such servant retires as permanent employee.

⁷ Paragraph 17 of the Judgement.

⁸ Paragraph 15 of the Judgement.

⁹ Paragraph 18 and 19 of the Judgement.