

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 902 OF 2016**

DISTRICT: - JALGAON.

Shri Sandip S/o. Vishnu Jadhav,  
Age : - 35 years, Occu: Service as  
Craft Instructor, R/o. C/o Government  
ITI, Chahardi Road, Wele,  
Tq. Chopda, Dist. Jalgaon.

.. APPLICANT.

**V E R S U S**

(1) Joint Director,  
Vocational Education & Training,  
Regional Office, Tryambak Naka,  
Agra Road, Nashik,  
Dist. Nashik.

2) Principal,  
Government Industrial Training  
Institute, Wele, Chahaardi Road,  
Tq. Chopda, Dist. Jalgaon.

.. RESPONDENTS

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**APPEARANCE** : Shri Sandesh R. Patil, Advocate for  
the applicant.

: Mrs. Deepali S. Deshpande –  
Presenting Officer for the res.

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**CORAM** : **B.P. PATIL, MEMBER (JUDICIAL)**

**DATE** : **14<sup>th</sup> February, 2018.**

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**O R D E R**

1. The applicant has challenged the order dated 30.04.2013  
issued by respondent No. 2 i.e. Principal, Government ITI,  
Wele, Tq. Chopda, Dist. Jalgaon, informing that the salary for

the month of January & February, 2013 will not be paid to him and prayed to quash and set aside the said order, by filing the present Original Application.

2. The applicant has completed the course in ITI and thereafter joined the defense services of Government of India. After retiring from the defense services, he has been appointed as Craft Instructor with respondent No. 2 vide order dated 21.08.2010 and since then he is serving as Craft Instructor.

3. The applicant submits that the respondent No. 2 has installed biometric machines for the attendance of the employees. The applicant submits that in the month of January & February, 2013 he attended the institute and discharged his duties scrupulously. He had given his thumb impression in biometric machine while coming in the institute and after going out of the institute after office hours. He had taught the students and also conducted their training, exam during the month of January & February, 2013. He had also taken attendance of the students during the said months and submitted attendance report with covering letter to respondent No. 2. He discharged his duties as Craft Instructor by attending the institute. However, on 1.2.2013, the respondent No. 2 had issued memo to him and sought explanation from

him about not putting thumb impression in biometric machine at the time of leaving the institute after end of the duties for the month of January, 2013. The applicant has given his explanation on 2.2.2013. The applicant has not received the salary for the relevant month. Therefore, he requested the respondent No. 2 by the letter dated 20.2.2013 to pay him salary and also called upon the respondent No. 2 to furnish information as to under which provision of law or rule the payment of his salary has been stopped. However, the respondent No. 2 had not given reply to the said letter. On 30.4.2013, respondent No. 2 issued order and informed the applicant that salary for the month of January & February, 2013 had not been disbursed to him as per the provisions of Government Resolution of the year 2006 and the guidelines given by the respondent No. 1, as the applicant failed to put his thumb impression for attendance in biometric machine while entering and leaving the office.

4. It is contention of the applicant that he has submitted his representation dated 17.1.2014 to the respondent No. 1 challenging the said order of the respondent No. 2. He had specifically contended therein that he scrupulously attended the institute for the month of January & February, 2013 and

marked his attendance in biometric machine and while entering in the office the thumb impression was recorded in biometric machine, but due to some technical problems his thumb impression had not been recorded in the machine at the time of leaving the office/Institute. He has contended that, he requested the respondent No. 1 to consider the said fact and to release the payment of salary for the month of January & February, 2013, but no reply has been received to him from the respondents. Thereafter, he sought information under Right to Information Act. At that time it was informed to him that his representation has been rejected by the respondent No. 1. It is his contention that the order passed by respondent No. 2 withholding the salary for the month of January & February, 2013, is illegal, as he attended the institute during the office hours during the month of January & February, 2013. It is his contention that the impugned order is illegal and against the provisions of rules and Government Resolution of the year 2006. Therefore, he prayed to allow the Original Application and quash and set aside the impugned order dated 30.4.2013 for not paying the salary for the month of January & February, 2013.

5. The respondents have filed their affidavit in reply and resisted the contention of the applicant. It is their contention that as per the Government policy, biometric machine has been installed in the Institute for taking daily attendance of the employees working in the Institute. It is their contention that the names of all the employees have been entered in the said machine. The Respondent No. 2 i.e. the Principal, Industrial Training, Chopda, Dist. Jalgaon, had issued circular dated 1.11.2011 regarding use of the biometric machine and directed the employees to put their thumb impression in the said machine while entering the office in the morning at 9.30 a.m. and while leaving the office at 5.45 p.m. It is their contentions that first shift of the Instructors working in the Institute works from 7.00 a.m. to 2.30 p.m., while the second shift of the Instructors work in the Institute during 9.30 a.m. to 5.45 p.m. It was directed to the employees to put their thumb impression in the biometric machine while coming in the Institute and while going out of the Institute. By issuing another circular dated 1.12.2011 respondent No. 2 informed all the employees that the machine was started functioning from 1.12.2011 and, therefore, he directed all the employees to take note of it and record their thumb impression. On that circular all the employees put their signatures, but applicant had not put his

signature as he was not present in the Institute at that time. Another circular dated 15.12.2011 had been issued by respondent No. 2 informing all the employees to follow the instructions given by the head office for recording thumb impression in the biometric machine. All the employees except the applicant put their signatures on the said Circular, as the applicant was not present in the Institute.

6. It is the contention of the respondents that respondent No. 2 thereafter again issued another order dated 8.11.2012 informing all the employees that practice of keeping muster attendance/sheet of the employees will be discontinued from 1.12.2012 and directed the employees to record their thumb impression in biometric machine at the time of coming in and leaving the Institute. If they did not follow the instructions, their salary will not be released. All the employees put their signature on the said circular, but the applicant refused to put his signature. It is contended by the respondents that the applicant used to put his thumb impression sometimes while entering in the Institute, but was not putting his thumb impression at the time of leaving the Institute. It is their contention that the applicant intentionally not put his thumb in biometric machine at the time of leaving the Institute.

Respondent No. 2 had given instructions to the applicant in that regard, but the applicant was not ready to follow those instructions given by the respondent No. 2. It is their contention that the applicant had submitted his explanation dated 2.2.2012 to the respondent No. 2 and stated that he has no specific intention for giving one time thumb impression, but he was remained present in the Institute till the evening and he never left the Institute before closing the office. He requested the respondents to take necessary action, if required.

7. It is contention of the respondents that the Government issued Circular dated 13<sup>th</sup> June, 2006 and had given specific instructions/guidelines regarding attendance of the employees working in Government offices/Institutes. It has been specifically mentioned therein that the salary of those employees, who were not punching their card while entering and leaving the office/Institute shall not be released. As the applicant has not recorded his thumb impression in the biometric machine while leaving the office/Institute, his salary for the months i.e. January & February, 2013, had not been paid to him. The action taken against the applicant is legal one and there is no violation of any legal provision and

Government Resolutions. Therefore, they prayed to reject the present Original Application.

8. I have heard Shri Sandesh R. Patil, learned Advocate for the applicant and Mrs. Deepali S. Deshpande, learned Presenting Officer for the respondents. I have perused the application, affidavit, affidavit in reply. I have also perused the documents placed on record by both the sides.

9. Admittedly, the applicant is serving as Craft Instructor with the respondent No. 2 since the year 2010. Admittedly, biometric machine had been installed in the office of the respondent No. 2, where the applicant is serving. Admittedly, respondent No. 2 issued circulars from time to time directing the employees working therein to record their thumb impression in the biometric machine while entering and leaving the office/Institute. Respondent No. 2 had also informed its employees to record their thumb impression in the biometric machine while entering and leaving the Institute. He further informed its employees that the employees, who were not recording their thumb impression while entering and leaving the office / Institute, were not entitled to get salary for those days. Admittedly, the applicant had knowledge



regarding the said circulars. Admittedly, the applicant put his thumb impression on some of the days in the month January & February, 2013 while entering in the Institute i.e. office of the respondent No. 2, but he had not put his thumb in the biometric machine while leaving the office during the entire month of January & February, 2013. The applicant had not put his thumb impression while leaving the office on any one of the days of January & February, 2013. The applicant admitted the said fact. It is his contention that due to technical fault in the biometric machine his thumb impression given at the time of leaving the office/Institute had not been accepted by the machine and it had not been recorded by the machine and, therefore, he is not responsible for the said fact.

10. Learned Advocate for the applicant has submitted that the applicant attended the institute on each and every working day in the month of January & February, 2013 and he attended the classes and taught the students. He took seminars and exam of the students during that period. He had also taken attendance of the students during the said months and submitted attendance report with covering letter to respondent No. 2. He has submitted that the said fact shows that the applicant attended the office/Institute regularly and

promptly during the month of January & February, 2013, but due to the faulty machine his thumb impression had not been recorded in the machine while leaving the Institute and, therefore, he cannot be blamed for it. He has submitted that the applicant is sincere employee and he never made mistake in his service career and, therefore, he prayed to allow the present Original Application and to quash and set aside the impugned order/communication dated 30.4.2013.

11. Learned Presenting Officer for the respondents has submitted that from time to time respondent No. 2 issued circulars requesting the employees working therein to record their thumb impression in the biometric machine while entering and leaving the office. He had also informed the employees that those employees, who fail to comply with the said requirement, will not get salary for the said days, in view of the G.R. dated 13<sup>th</sup> June, 2006. He has submitted that the applicant has recorded his thumb impression while entering the Institute in the month of January & February, 2013, but he had not recorded his thumb impression while leaving the Institute for single day during that period. He has submitted that the applicant has intentionally avoided to record the thumb impression while leaving the office/ Institute. The

explanation was called from the applicant in the month of January & February, 2013 for not recording thumb impression in the month of January & February, 2013. The applicant has given reply to it on 2.2.2013 and asked the respondent No. 2 to take necessary action against him as per the rules. He has submitted that the very conduct of the applicant shows that the applicant has not obeyed the orders of superior and he intentionally avoided to record his thumb impression in the biometric machine while leaving the Institute for the month of January & February, 2013. He has submitted that the applicant has admitted the fact that he had not put his thumb in biometric machine while leaving the office premises for the month of January and February, 2013 and thereby asked the respondent No. 2 to take necessary action as per the rules. Therefore, the respondent No. 2 had taken the said action of not paying the salary for the month of January & February, 2013, in view of the provisions of the circular dated 13<sup>th</sup> June, 2016 issued by the Government, in that regard. He has submitted that the action taken by the respondent No. 2 is legal one and, therefore, he prayed to reject the present Original Application.

12. On perusal of the record, it reveals that the biometric machine has been installed in the office of the respondent No.

2 and thereafter the res. No. 2 directed all the employees working therein to record their thumb impression while entering and while leaving the office. They were also informed by the circular that they will not be paid for those days, if they fail to record thumb impression while entering and leaving the office premises. The said circulars had been brought to the notice of the applicant also, but the applicant intentionally had not recorded his thumb impression while leaving the premises of the office in the month of January & February, 2013 though he had recorded his thumb impression while entering in the office premises. In the Original Application the applicant has come with a case that the machine was faulty, but such grievance has not been raised by the applicant while giving explanation dated 2.2.2013 to the respondent No. 2. On the contrary, in his explanation dated 2.2.2013 he asked the respondent No. 2 to take necessary action against him as per the rules for not putting thumb impression while leaving the office. This fact shows that the applicant intentionally avoided to put thumb impression in the biometric machine while leaving the office premises. He intentionally disobeyed the circular issued by the respondent No. 2 from time to time. The circular dated 13.06.2006 issued by the Government clearly shows that it was mandatory on the part of all the employees

working in the Government office to record their thumb impression while entering and while leaving the office premises during the office hours after completion of the work. It has also been mentioned in the circular that if any employee avoids to put his thumb impression while entering and leaving the office will be punished and the salary for that day will not be paid to him. In view of the provisions of the said circular, respondent No. 2 had taken action against the applicant, as the applicant had continuously avoided to put his thumb impression in the biometric machine while leaving the Office for the month of January & February, 2013. Even it is assumed that there was technical fault in the biometric machine then the applicant would have brought the said fact to the notice of respondent No. 2 immediately. In spite of the notice dated 1.2.2017 calling explanation from him the applicant kept mum and had not raised any grievance regarding non-functioning of the biometric machine and having fault therein. His explanation dated 2.2.2013 is silent on that point. Not only this but, after issuance of memo dated 1.2.2013 the applicant continued to disobey the order of the respondent No. 2 and he has not recorded his thumb impression in the biometric machine of the entire month of February, 2013. This shows that the applicant has

intentionally avoided to record his thumb impression in the biometric machine. Therefore, the respondent No. 2 has come to the conclusion that the applicant is not entitled to the salary for the month of January & February, 2013 in view of the Circular dtd. 13.6.2006 & passed the order accordingly. There is no illegality in the impugned order dated 30.4.2013 issued by the respondent No. 2. Therefore, I do not find substance in the submission advanced by the learned Advocate for the applicant in that regard.

13. Considering the above said discussions, the impugned order issued by the respondent No. 2 dated 30.4.2013 is in accordance with the provisions of Circular dated 13<sup>th</sup> June, 2006 and there is no illegality in the impugned order. Therefore, no interference in it is called for. There is no merit in the present Original Application. Consequently, it deserves to be dismissed.

14. In view of the above discussion, the present Original Application is dismissed with no order as to costs.

**MEMBER (J)**

**PLACE : AURANGABAD.**

**DATE : 14<sup>th</sup> February, 2018.**

O.A.NO.902-2016(SB)-HDD-2018