

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CONTEMPT PETITION NO. 57 OF 2015
IN WP/962/1988

VASANT NAMDEO GORE
VERSUS
DHANANJAY UDDHAVRAO PATIL AND ANOTHER

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Advocate for Petitioner : Shri Wakure Sanjay A.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: February 10, 2015

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PER COURT :-

1. The petitioner was earlier terminated by the Rajashri Shahu Shikshan Prasarak Mandal. He failed before the School Tribunal in Appeal No.8 of 1987 on 29.1.1988. Writ Petition No.962 of 1988, preferred by the petitioner was allowed by judgment dated 2.4.2004. Relevant observations in paragraph No.17 of the said judgment are reproduced herein below :-

" Rule made absolute in terms of Prayers Clause "A", "B" and "C". No order as to costs. The respondents are directed to reinstate the petitioner forthwith and the petitioner is entitled to receive full back wages. The management is at liberty to take appropriate steps against the petitioner in accordance with law after reinstating him and on payment of back wages."

2. A fresh departmental enquiry was conducted and the petitioner was terminated for the second time. Appeal No.68 of 2007, preferred by him, came to be allowed on 8.2.2012. The management preferred Writ Petition No.5940 of 2012, which is pending and no interim relief has been granted to

the management. The petitioner attained the age of superannuation in 2008.

3. The petitioner preferred Contempt Petition No.137 of 2005, whereby, this Court, in effect, has modified the conclusions of this Court dated 2.4.2014 reproduced herein-above and ordered that the respondent shall deposit only half of the backwages. The petitioner was granted liberty to withdraw 50% of half of the backwages as deposited.

4. The petitioner preferred LPA No.181 of 2007 challenging the order of this Court dated 8.3.2007 in Contempt Petition No.137 of 2005. The learned Division Bench, by judgment dated 1.3.2013, has dismissed the LPA by permitting the petitioner to withdraw the entire amount of backwages deposited in this Court. The petitioner points out paragraph No.7(a & b) of the judgment of the learned Division Bench, which is as follows:-

"7. This Court, therefore, dispose of this LPA with following directions:-

(a) Letters Patent Appeal is dismissed.

(b) The entire amount of back wages deposited in this Court in Contempt Petition bearing No.137 of 2005 be paid to the respondent employee unconditionally, along with accruals, if any, thereof, by drawing a Demand Draft of full amount as may be found payable within 30 days from today."

5. Grievance of the petitioner is that the respondents have not complied with the directions of this Court in paragraph No.17 of the

judgment dated 2.4.2004 in Writ Petition No.962 of 1988 and the judgment of the School Tribunal, dated 12.2.2012.

6. In so far as the observations of this Court in paragraph No.17 of the judgment dated 2.4.2004 are concerned, this Court dealing with Contempt Petition No.137 of 2005 had directed that the petitioner would be entitled to withdraw half of the deposited amount of backwages. The Contempt Petition to the extent of the purported dis-obedience of paragraph No.17 of the judgment dated 2.4.2004 has been disposed off.

7. The Appeal Bench, while dismissing LPA No.181 of 2007 has permitted the petitioner to withdraw the entire backwages deposited without conditions. As such, once the Contempt Petition has already been preferred by the petitioner in relation to the judgment dated 2.4.2004 of this Court, has been disposed off and the LPA has been dismissed, the petitioner cannot file a second Contempt Petition for the same cause of action.

8. I, therefore, do not find any merit in this Contempt Petition. Needless to state, the pending Writ Petition 5940 of 2012 would decide the claim of the petitioner for backwages for the period of unemployment and till his superannuation. So far as implementing the judgment of the School Tribunal, dated 12.2.2012 is concerned, the petitioner is at liberty to avail of such remedy, as may be available in law.

9. In the result, Contempt Petition stands rejected.

(RAVINDRA V. GHUGE, J.)

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