

**IN THE HIGH COURT OF BOMBAY AT GOA**

WRIT PETITION NO. 564 OF 2014

KANAIYA S. NAIK

... Petitioner

Versus

STATE OF GOA THR. ITS CHIEF  
SECRETARY AND 2 ORS.,

... Respondents

Mr. Lotlikar, Advocate Adv. for the petitioner.

Mr.V. Rodrigues, Addl. Government Advocate for respondent nos.1  
and 2.

Mr. P.A. Kamat, Advocate for R.no. 3.

Coram:- F. M. REIS &  
K. L. WADANE, JJ.

Date:- 9th July, 2015

P.C.

Heard the learned counsel appearing for the rival parties.

2. The above writ petition, inter alia, prays for a direction that the petitioner be reinstated in the services of the respondent no.3 and he be allowed to resume the duties forthwith. The petitioner has also sought a direction to direct the said respondents to pay full back wages since January 2012.

3. During the course of hearing, Mr. Lotlikar, the learned counsel appearing for the petitioner has pointed out that, in the meanwhile, the respondent no.3 has issued a fresh order of suspension and a inquiry is in progress on the allegation against the petitioner. In such

circumstances, the petition has become infructuous, but, however, all the contentions of both the parties, on merits, are left open.

4. Mr. Lotlikar, the learned counsel appearing for the petitioner thereafter points out that vide order dated 26.11.2014 passed by this Court, the respondent no.3 was directed to deposit the arrears due to the petitioner from the date of issuance of the order of termination till the date of the order of suspension, in this Court. Accordingly, the respondent no.3 has deposited such amount from 23rd August, 2012 till 5th November, 2014. Mr. Lotlikar submits that though objections have been raised by the petitioner that such amounts have to be paid from January 2012 nevertheless without prejudice to such contention, the petitioner be permitted to withdraw the amount so deposited in this Court.

5. Mr. Kamat, the learned counsel appearing for the respondent no.3, however, disputes the right of the petitioner to claim such amounts, as according to him, the dispute with regard to such payment is also the subject matter of the adjudication in the inquiry pending against the petitioner.

6. Be that as it may, as the amounts deposited, are in fact, the salary payable to the petitioner from the date of the termination, which has been set aside, up to the date of fresh suspension. We find that the petitioner should be permitted to withdraw the amounts

deposited in the Court, subject to furnishing an undertaking to the satisfaction of the Registrar (Judicial) of this Court that in case, any adverse order is passed against the petitioner and in case the respondent no.3 is held legally entitled to recover such amounts, the petitioner shall be liable to refund such amount in terms of any legal orders passed in such process.

7. In view of the above, the petition is dismissed as infructuous, but however, all the contentions of both the parties, on merits, are left open. The petitioner is accordingly permitted to withdraw the amount deposited in this Court in the light of the observations made hereinabove.

8. The petition stands disposed of accordingly.

K. L. WADANE, J.

F. M. REIS, J.

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