

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CONTEMPT PETITION NO. 76/2014
WITH WRIT PETITION NOS. 4241 & 1962 OF 2012.

Ku. Mala Tameshwar Gawande

VERSUS

State of Maharashtra and others.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

CORAM : B.P. DHARMADHIKARI
& A.P. BHANGALE, JJ.

DATED : JANUARY 05, 2015.

Heard Shri A.D. Mohgaonkar, learned Counsel for contempt petitioner, Shri A.M. Kale, learned A.G.P. for respondent nos. 1 to 3 and Shri Abhay Sambre, learned Counsel for respondent nos. 4 and 5.

Non-compliance with Courts order dated 06.02.2013 and 05.04.2013 in Writ Petition Nos. 4241/2012 and 1962/2012 is, questioned as contempt

by petitioner-employee, who has filed Writ Petition No. 1962/2012.

Grievance in the petition is about non granting approval, as also salary from the year 2000 onwards. Petitioner claims that she has been appointed in the year 1994, after following proper procedure.

On 06.02.2013, while admitting Writ Petition Nos. 4241 and 1962 of 2012, the Management and Headmistress were directed to start paying salary to petitioner from 01.01.2013 onwards regularly and during pendency of the challenge. Accordingly, after filing of the present Contempt Petition and in terms of the directions issued in contempt, the amount has been paid to the petitioner.

Shri Mohgaonkar, learned counsel however, has submitted that service rendered from 1994 till 01.01.2013 has been lost sight of, and the petitioner has not been paid necessary increments on account of that service. Thus, salary paid is, meager.

It is further pointed out that on 05.04.2013

this Court directed the Management to submit proposal for granting approval to services of petitioner within a period of four weeks and that proposal was to be considered independently within next six weeks. That proposal is still not properly decided.

Shri Sambre, learned counsel appearing for Management has invited attention to a communication dated 02.03.2013. He submits that the proposal was returned back as the Authorities wanted an upto date certified roaster to be submitted as its part. He submits that the Management has got certified roaster of the year 2007, and thereafter no appointments are made and according to them, there is no change in the situation. He submits that the proposal is re-submitted to the Authorities.

Learned A.G.P. appearing on behalf of the said Authority submits that as per the procedure, the Authorities have to verify whether roaster is being adhered to, while giving approval and accordingly documents have been asked for. As documents were not submitted, proposal was sent back, and as such

there is no contempt.

Shri Mohgaonkar, learned counsel submits that the situation prevailing in the year 1994 is to be evaluated and as such roaster certified either in the year 2007 or then situation prevailing in the year 2013, is not relevant. According to him, consideration should be qua the situation in 1994.

We keep the said contention of Shri Mohgaonkar, open.

Order dated 06.02.2013 has been passed in Writ Petition only to see that the petitioner who was working without any salary, starts receiving it. There was no question of this Court pronouncing upon the validity or otherwise of the appointment of the petitioner. As such, the contention that past services rendered by the petitioner from 1994 till 01.01.2013 has been ignored, cannot be accepted. If any weightage is to be given to that service, after the proposal is appropriately looked into, the question of grant of such weightage can be considered by this Court.

In so far as compliance with Court order dated 05.04.2013 is concerned, the Court has directed the Authorities to consider the proposal being submitted by the Management as an interim measure. The proposal was to be considered independently on its own merit. The Authorities on 02.05.2013 found that the documents showing compliance with roaster, necessary. Management before us has made a statement that they have got last roaster which is certified in 2007, and thereafter no appointments are made. Management can submit that roaster and affidavit pointing out that there is no change in situation after 2007, till the date of submission of the proposal.

Contention of the learned counsel for contempt petitioner that the petitioner has been appointed in the year 1994 and therefore, roaster position prevailing in that year was relevant, is kept open and can be looked into by the Authorities while considering the case of petitioner for grant of approval.

If all these documents are already

submitted by the Management to the Authorities, the Authorities shall consider the proposal in accordance with law, in terms of order dated 05.04.2013, within six weeks from today. If such proposal is not submitted with necessary documents or if there are any other lacunae, the management should re-submit the proposal and arrange to remove the lacunae within two weeks from today. After this is done, the Authorities shall proceed to consider the proposal on its own merit within a period of 6 weeks, if necessary, opportunity of hearing shall be extended to the petitioner as also the respondent Management.

With these directions, we dispose of the present Contempt Petition. No costs.

Copy of this order shall also be placed with record of Writ Petitions and shall be treated as orders passed in respective writ petitions.

JUDGE

JUDGE

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