

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

WRIT PETITION NO. 3562 of 1998

(Shri Prabhakar G. Gadekar through his L.R. Mrs. Suman wd/o Prabhakar
 Gadekar Vs. Govt. of Mah. through its Secretary, Irrigation Dept. and ors.)

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

Court's or Judge's order

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

DATE : FEBRUARY 13, 2015.

Heard learned Advocate Ms. Iyer for the petitioner and Mrs. K. S. Joshi, learned AGP for the respondents.

The challenge is to non implementation of the orders by which original petitioner, namely, Shri Prabhakar Gadekar was entitled to interest at 12% on belated payment of pension and other retiral benefits. The Maharashtra Administrative Tribunal has in O.A. No. 757/1996 passed an order directing respondents to work out amount of interest within three months. Prabhakar was claiming interest on Rs. 67,336/- and compound interest on gratuity amount. He was offered amount of Rs. 405/- only as interest.

In Contempt Petition No. 12/1998 on 16-9-1998, the Maharashtra Administrative Tribunal found that challenge was to the merits

of the controversy i.e. on merits of exercise undertaken to calculate interest and therefore, it could not have taken its cognizance in contempt jurisdiction. It therefore disposed of the contempt petition. Thereafter present writ petition has been filed with prayers to quash said order dated 16-9-1998 and to grant petitioner interest at 12 % on pension amount as also on gratuity amount. The interest is also claimed on commuted value of pension.

During hearing, we found that in contempt petition, Shri R. G. Kulkarani, Secretary, Irrigation Department, Shri S. Y. Kulkarni, Chief Engineer and Shri V. N. Wadode, Chief Engineer were personally made parties. Shri S. Y. Kulkarni was then described as retired Chief Engineer.

In writ petition filed before this Court, these persons are not joined as parties. Government of Maharashtra through its Secretary, Irrigation Department, Chief Engineer, Irrigation Department and Maharashtra Administrative Tribunal are joined as respondents.

Prayers made in writ petition go beyond the scope of prayers in contempt petition. The

merits of exercise and reasons given by the respondents in contempt petition for denying interest on particular amount could not have been assailed in contempt petition. The petitioner ought to have filed proper O.A. under Section 19 of the Administrative Tribunal Act, 1985 seeking necessary reliefs and that was not done. Those reliefs are sought for the first time before this Court while challenging orders passed in contempt petition.

In this situation, when writ jurisdiction of this Court has been invoked, it is apparent that the grievance on merits being raised for the first time cannot be looked into. Insofar as challenge to orders passed in contempt petition are concerned, petition does not make out any case to enable us to set aside said order dated 16-9-1998 or to punish the contemnors. In absence of those officers as respondents, it is not possible to this Court to disturb that order. The controversy on merits cannot be appreciated as State Government was not party before Maharashtra Administrative Tribunal and it did not get any opportunity to justify its action. Hence with liberty to petitioner to make appropriate application before the Maharashtra

Administrative Tribunal, if she so advised, we dispose of the writ petition.

No costs.

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