

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CONTEMPT PETITION NO. 158 OF 2016
IN WP/356/1992

ABASAHEB RAJARAM MORE.
VERSUS
THE EDUCATION OFFICER AND OTHERS

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Advocate for Petitioner : Shri S.D.Kulkarni.
AGP for Respondents/ State : Shri S.N.Kendre.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 19th December, 2016

Per Court:

- 1 On 16.08.2016, the following order was passed:-
 - “1. This Court, by judgment dated 03/07/2014, while allowing the writ petition, has directed in paragraph No.14 as under:-
“The petitioner shall be deemed to have been promoted to the post of Head Master w.e.f. 07/11/1989 and should be given all the benefits incidental, ancillary and consequential thereto.”
 2. It is not in dispute that the petitioner had worked as an “Assistant Teacher” in between 07/11/1989 and 31/05/2013 when he superannuated. This Court has granted him the status of a Head Master from 07/11/1989 till 31/05/2013.
 3. As such, respondent No.4 /Education Officer will have to calculate the leave encashment that the petitioner was entitled to as a Head Master in the said period after debiting / subtracting those leave which the petitioner has availed of in the same period when he was working as an “Assistant Teacher”.
 4. Learned AGP submits that respondent No.3 would calculate the leave encashment available to the petitioner by considering the above directions and would take necessary steps providing for the payment

of the said amount. A short affidavit would be entered by respondent No.3 before the next date of hearing in this matter. He also submits that the effect of the GR dated 04/08/1995 would be explained in the said affidavit.

5. *Stand over to 31/08/2016. Affidavit shall be filed on or before 29/08/2016.”*

2 I have heard the learned Advocates for the respective sides.

3 The learned AGP submits that the only reason for not making full payment of leave encashment to the Petitioner is because he did not work in vacations in between 07.11.1989 and 31.12.2010. I find from the judgment delivered by this Court on 03.07.2014 that this Court concluded in paragraph 14 that the Petitioner shall be deemed to have been promoted to the post of Headmaster w.e.f. 07.11.1989 and should be given all the benefits incidental, ancillary and consequential thereto. It is in this backdrop that the Petitioner was not a Headmaster and hence, was not expected to work in vacation in the periods 07.11.1989 to 31.12.2010.

4 It is obvious that this Court has reinstated the Petitioner to the post of Headmaster by concluding that he is deemed to be promoted as Headmaster from 07.11.1989. The deeming fiction, therefore, would be that he has worked as Headmaster and would be entitled to the benefits incidental, ancillary and consequential thereto.

5 Shri Sanjay Ganpat Gambhire, Superintendent, Pay and Provident Fund Unit (Secondary) of the Respondent/ Ahmednagar Zilla Parishad, submits that in the light of the observations as above, the Petitioner would be paid the benefits of leave encashment for the period of 136 days towards earned leave.

6 The learned AGP submits that as this Court has observed hereinabove that the Petitioner is entitled for earned leave encashment of 136 days, the said amount would be paid within a period of six weeks.

7 Shri Kulkarni, learned Advocate for the Petitioner, submits that this petition can then be disposed of as he is not interested in prosecuting any officer and the Petitioner is satisfied if the money due to be paid to him, is paid to him.

8 In the light of the above, the statement made by the concerned Superintendent is accepted. The Contempt Petition is disposed of keeping in view that the said Superintendent would ensure that the amount due is paid to the Petitioner within SIX WEEKS from today.