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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.564 OF 2014

IN

WRIT PETITION NO.1843 OF 1998

Deshraj Soma Bagul

...Petitioner

(Beneficiary in the Original Writ Petition)

vs

Ms. Milan H. Kamble

...Respondent

.....

Ms. Karuna Yadav, i/b. N.N. Ganguli, for the Petitioner.

Mr. Aasif I. Patel, AGP for Respondent No.1(a) to 1(c).

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CORAM : S.C. GUPTE, J.

DATED: APRIL 11, 2016

P.C.:

. The Contempt Petition discloses a serious lapse on the part of the Respondent Contemnor. By an award dated 23 October 1997, on a reference, being Reference (IT) No.184 of 1990, the Respondent was directed to pay the 2nd Party workmen, on whose behalf the present Contempt Petition is filed, all benefits such as wages, allowances etc. with effect from the respective dates of joining the services under the Respondent. This award was challenged by the Respondent before this Court by way of Writ Petition No.1843 of 1998. By an order passed by this Court on 24 January 2011, the writ petition was dismissed and the Respondent was directed to implement the award dated 3 November 1997 within a period of twelve weeks from the date of this Court's order.

Despite several communications made in that behalf, the award was not implemented till July 2014. In the premises, the present Contempt Petition was moved by the Petitioner, who was one of the beneficiaries of the award. When the Contempt Petition came up on board on 2 December 2015, this Court noticed that, though a challenge to the order passed by this Court on 24 January 2011 directing the Respondent to implement the award within twelve weeks, was dismissed by the Supreme Court on 21 August 2012, the order of this Court was not complied with and no extension of time was sought. This Court also noted that, in the affidavit of the Executive Engineer filed the Contempt Petition, no explanation was furnished for the gross delay in release of the amount, except narrating the movement of the file. (The payment was finally made on 19 August 2015.) This Court noted that, prima facie, such explanation was not acceptable. On that date, the learned AGP took time to take instructions as to whether and by way of mitigating the breach the State was prepared to pay any amount towards compensation to the Petitioner and others. Despite this Court noting this in its order of 2 December 2015, no response was communicated to this Court. In the premises, in its order dated 12 January 2016, this Court noted that the explanation submitted for the delay was, prima facie, not satisfactory and that on the next date, the Court would proceed to pass appropriate orders on the Contempt Petition. (After the last order of the Court, a further additional affidavit in reply was filed on behalf of the Respondent, which again did not indicate any satisfactory reasons for the gross delay.) In its order dated 3 February 2016, this Court after noting the circumstances of the case and considering the law on the point, noted that State of Maharashtra

has framed a specific legislation dealing with negligence in duty on the part of its officers. It was expected that the State would give effect to its intention to deal with officers, who are negligent in their duties. The Registry was directed to forward a copy of that order to the Competent Authority in this behalf, namely, the Secretary, Public Works Department, Mantralaya, Mumbai. It was made clear that such order would be without prejudice to the proceedings under the Contempt of Courts Act, 1971. Learned AGP has shown that, in pursuance of the order of 3 February 2016, show cause notices have been issued against the delinquent employees, which would be further investigated after replies are received from the concerned Officers.

2. When the matter reached for hearing today, the learned AGP appearing for Respondent Nos. 1(a) to 1(c) made a submission that this Court may decide some reasonable compensation to be paid to the Petitioner and others, who are second parties in the award dated 3 November 1997. Learned AGP requests the Court that the compensation fixed by the Court will come from the individual Officers, who are concerned in the matter of this gross delay in implementing the award and in view of that, further proceedings in the show cause notices may be permitted to be dropped against them. Deputy Secretary of Public Works Department, Mr. Anil Eknath Kulkarni, is present in person before the Court. The Petitioner is agreeable to receive compensation for such delay.

3. In the premises, the Contempt Petition is disposed of in terms of the following order :-

Respondent Nos. 1(a) to 1(c) are directed to pay each individual workman, who is the beneficiary of the award dated 3 November 1997, a sum of Rs.30,000/-. These amounts shall be recovered from the concerned Officers of the Respondent, against whom show cause notices have been issued by the Secretary, Public Works Department. In the event the concerned employees pay up these amounts, the Respondent shall be free to drop the show cause notices issued against them. It is, however, made clear that compensation directed by this Court shall be paid upfront by Respondent Nos. 1(a) to 1(c) to the beneficiary employees within a period of four weeks from today, without waiting for recovery of these amounts from the concerned Officers.

4. The Contempt Petition, accordingly, stands disposed of.

(S.C. GUPTE, J.)