

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CONTEMPT PETITION NO.182 OF 2015
IN
WRIT PETITION NO.959 OF 2012**

Shri. Ganpat Pundalik Jadhav

..Petitioner

Versus

Mr. Tukaram A. Kasar and others

..Respondents

Mr. Dilip Bodake for the Petitioner.

Mr. Vijay Killedar for the Respondents.

CORAM : R. M. SAVANT, J.

DATE : 16th SEPTEMBER, 2016

PC.

1 The contempt alleged is of the order dated 14.03.2011 passed by the Learned Member of the Industrial Court read with the order dated 17.07.2013 passed in the above Writ Petition No.959 of 2012. The contempt alleged is on account of the order dated 19.12.2013 issued by the Chief Executive Officer, Zilla Parishad, Solapur, by which order, the Petitioner has been re-appointed as a part-time Librarian from 17.07.2013 and it is further ordered that recovery should be made from the Petitioner in respect of the payment made to him of the post of full time Librarian. It is the case of the Petitioner that the said order dated 19.12.2013 could not have been issued by the Respondents in the teeth

of the order dated 11/14.06.2010 issued by the Chief Executive Officer, Zilla Parishad, Solapur, by which order, the Petitioner was appointed as a full time Librarian and was directed to be placed in the grade of 5200-20200. Hence, the gravamen of the allegations of the Petitioner has its basis in the said order dated 11/14.06.2010. It would therefore be necessary to go into the factual backdrop in which the said order dated 11/14.06.2010 came to be issued.

2 The Petitioner herein was working as a part-time Librarian with the school run by the Zilla Parishad, Solapur. The Petitioner had filed Complaint (ULP) No.69 of 1995 on account of the termination of his services. Suffice it would be to state that the said Complaint came to be partly allowed by the Labour Court by judgment and order dated 25.08.2004 and the Petitioner herein was directed to be reinstated on the same post of part-time Librarian with continuity of service from 21.07.1994 with 25% backwages till the Selection Committee makes an appointment to the post of Librarian.

3 The Respondent Zilla Parishad aggrieved by the said order dated 25.08.2004 passed by the Learned Judge of the Labour Court challenged the same by filing Revision (ULP) No.38 of 2004. The said Revision Application came to be partly allowed to the extent that the

award of backwages was set aside however the Respondent i.e. Revision Applicant was directed to reinstate the Petitioner without any backwages till the Selection Committee makes appointment to the post of Librarian. The order passed by the Learned Member of the Industrial Court in Revision is dated 07.12.2004.

4 It seems that thereafter the Petitioner had filed Complaint (ULP) No.63 of 2005 which is the present Complaint and the principal relief sought is that his services should be considered from 29.07.1993 as a full time Librarian. It appears that whilst the said Complaint (ULP) No.63 of 2005 was pending, the Petitioner had filed another Complaint (ULP) No.19 of 2010 alleging non-compliance of the order dated 25.08.2004 passed by the Learned Judge of the Labour Court as confirmed by the order dated 07.12.2004 passed by the Learned Member of the Industrial Court, Solapur. The said Complaint was filed under Section 48 of the MRTU & PULP Act. It seems that after the said Complaint (ULP) No.19 of 2010 was filed, the opinion of the advocate who was appearing for the Zilla Parishad was sought. It seems that the advocate by his letter dated 05.05.2010 informed the Zilla Parishad that the Petitioner is required to be appointed as a full time Librarian in the school run by the Zilla Parishad at Madha, District Solapur. It seems that pursuant to the said Complaint (ULP) No.19 of 2010 being filed as also

on the basis of the opinion of the advocate of the Zilla Parishad, the Chief Executive Officer of the Zilla Parishad issued the said order dated 11/14.06.2010 appointing the Petitioner as a full time Librarian in the grade of 5200-20200 in the grade pay of Rs.2400/-. The opinion given by the advocate for the Zilla Parishad is now questioned on behalf of the Zilla Parishad on the ground that since by the orders passed by the Labour Court as confirmed by the Industrial Court, at the highest the Petitioner could be appointed as a part-time Librarian, the opinion given by the advocate for the Zilla Parishad was not in keeping with the final reliefs which were granted by the Labour Court as confirmed by the Industrial Court.

5 In so far as the appointment of the Petitioner as a full time Librarian is concerned, the matter does not rest with the said letter dated 11/14.06.2010. The Government Resolution dated 25.11.2005 prescribes that for appointment of a full time Librarian the number of students have to be over 1000. In the instant case, the number of students is less than 1000. It is required to be noted that in the schedule of post approved by the Zilla Parishad for the school in question, one post has been shown as a full time Librarian in the schedule approved for the year 2009-2010. This gave rise to correspondence between the Zilla Parishad and the Education Officer (Secondary) of the Zilla Parishad. On such

correspondence being ensued, the Education Officer (Secondary), Zilla Parishad informed the Chief Executive Officer that one post of a full time Librarian has been shown in the schedule approved for the year 2009-2010 on the basis of the information provided by the Headmaster of the said school. The Zilla Parishad therefore sought the necessary correction from the Education Officer (Secondary) as regards the schedule. The said correction was thereafter carried out and accordingly one post for part-time Librarian came to be shown in the approved schedule for the school in question for the subsequent years. It appears that the Chief Executive Officer, Zilla Parishad had issued show-cause notices to the officials from the establishment of the Zilla Parishad as also to the Headmaster as to how one post of full time Librarian came to be shown in the schedule and as to how an appointment as a full time Librarian came to be issued to the Petitioner. Hence, in so far as the appointment issued vide order dated 11/14.06.2010 is concerned, there is a serious controversy in respect of the same as regards the manner in which the said appointment was made. In fact, having regard to the orders passed by the Labour Court dated 25.08.2004 as confirmed by the order dated 07.12.2004 passed by the Industrial Court, how the said order dated 11/14.06.2010 for appointment as a full time Librarian could be issued, begs an answer.

6 In so far as Complaint (ULP) No.63 of 2005 is concerned, the

same came to be allowed by the judgment and order dated 14.03.2011 passed by the Learned Member of the Industrial Court, Solapur. The Learned Member of the Industrial Court, Solapur has issued a direction to the Zilla Parishad to appoint the Petitioner as a full time Librarian from 1997-1998 by giving the benefit of continuity of service as also the scale applicable to the said post as on the date of the order passed by the Industrial Court. However, the Industrial Court has refused backwages. A further direction has been issued that the Petitioner should be extended all the benefits that are applicable to the said post from the year 1997-1998.

7 The said order dated 14.03.2011 passed by the Learned Member of the Industrial Court has been taken exception to by way of the above Writ Petition No.959 of 2012. The said Writ Petition came to be admitted by a Learned Single Judge of this Court by order dated 17.07.2013 and interim reliefs in terms of prayer clause (c) came to be granted. As a result of the said interim relief, operation, implementation and execution of the impugned judgment and order dated 14.03.2011 passed by the Learned Member of the Industrial Court in Complaint (ULP) No.63 of 2005 came to be stayed. As indicated above, Contempt is alleged on the basis of the order dated 11/14.06.2010. It has already been observed hereinabove as to how the said order dated

11/14.06.2010 goes beyond the reliefs granted by the Labour Court by the order dated 25.08.2004 and as confirmed by the Industrial Court and therefore could not have been issued. The background in which the said order dated 11/14.06.2010 is issued, has already been adverted to hereinabove. In my view, therefore, in issuing the order dated 19.12.2013, no breach or violation of the order dated 14.03.2011 passed by the Industrial Court or the order dated 17.07.2013 passed by a Learned Single Judge of this Court can be said to be committed. This is a case, where the Petitioner is seeking to draw an unfair advantage, to which he is not entitled to in law. The entitlement of the Petitioner to the post of full time Librarian would be contingent upon the decision that would be rendered in the above Writ Petition. In that view of the matter, no case for exercise of the contempt jurisdiction of this Court is made out. The Contempt Petition is accordingly dismissed.

[R.M.SAVANT, J]