IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 28 OF 2015

Union of India and ors. .. Petitioners.
vs.
Smt. Shakuntala G. Badole .. Respondent.

None for the petitioners.
Mr. G.K. Masand i/b A.A. Manwani for the respondent.

CORAM: D.H. WAGHELA, C.J. AND
M.S.SONAK, J.
DATE : 18 MARCH 2016

P.C.:

1] This matter was taken up for admission on 2 March 2016. However, as the learned counsel for the petitioners was not present, the matter was adjourned to 18 March 2016.

2] Today, when this matter is called out, again, learned counsel for the petitioners is absent.

3] Mr. Masand, learned counsel for the respondent, has stated that he had informed learned counsel, who appears for the petitioners that the matter is on today's board. Mr. Masand has submitted that on account of pendency of this petition and even though, there is no interim relief granted by this Court, the respondent, who is a widow, has been deprived of appropriate monetary reliefs due to her, on account of the injustice meted out to her late husband. Accordingly, rather than dismiss this petition for non-prosecution, we have taken up this petition for consideration on merits.

4] The record bears out that the respondent's husband late Jagdish Badole, had infact been promoted by order dated 12 January 2010 as Assistant Commissioner of Income Tax with effect from 10 April 1997. This is clearly recorded by the Central Administrative Tribunal (CAT) in its order dated 11 August 2011 made in Original Application No. 523 of 2009. In the said original application, Jagdish had applied for directions that his case be considered for promotion to the post of Deputy Commissioner and Joint Commissioner, since such consideration was unduly denied to him on the ground of pendency of criminal prosecution. Jagdish had pointed out that he had ultimately been acquitted in the matter and therefore, was entitled to be restored the benefits that were unduly withheld by the petitioners.

5] During pendency of aforesaid Original Application No. 523 of 2009, however, Jagdish expired. Therefore, the matter was pursued by his widow, respondent herein. Original Application No. 523 of 2009 was disposed of by the CAT with the following directions:

> *“5. We accept the submission of learned counsel as they are reasonable, and direct the respondents to consider the case of the applicant for notional promotion as Deputy Commissioner in accordance with law and thereafter as Joint Commissioner, if entitled to and work out the consequential*

> *benefits which the applicant would be entitled to and pay the same to the present applicants the legal representative of the deceased applicant.*
>
> *6. With the above said directions, we dispose of this OA.*
>
> *7. Needless to observe the consequential pensionary benefits would also be required to be worked out accordingly.*

6] Mr. Masand has pointed out that at some later point of time, the respondent was informed that the case of her husband Jagdish was considered for promotion to the post of Deputy Commissioner and Joint Commissioner, but no promotion was recommended. Mr. Masand stated that he has no grievance on this score. He has, however, submitted that the respondent, by misreading the direction with regard to notional promotion to the post of Deputy Commissioner and Joint Commissioner, had even denied Jagdish and consequently his widow, the benefits due on account of Jagdish's actual promotion to the post of Assistant Commissioner of Income Tax. The respondent, accordingly, was constrained to institute an application before the CAT seeking for reliefs like difference in salary and re-working of pension, on the basis of promotion to the post of Assistant Commissioner of Income Tax.

7] The CAT, upon due consideration of the factual aspect, as also, the law laid down by the Hon'ble Supreme Court in the case of ***Union of India Vs. KV Jankiraman – 1993 SCC (L&S) 387,*** has granted reliefs to the respondent. We are satisfied that such limited reliefs were indeed due to the respondent and the same were withheld by the petitioners herein, without any tangible or cogent reason. The directions in the matter of notional promotion were in the context of post of Deputy Commissioner or Joint Commissioner. The respondent has not pursued the matter with regard to the promotion of the said posts. However, insofar as the post of Assistant Commissioner of Income Tax is concerned, the CAT in its original order had clearly recorded that Jagdish had already been promoted to the said post with effect from 10 April 1997. In such circumstances, the benefits attendant to this post were wrongfully withheld by the petitioners. There is no reason to interfere with the order made by the CAT.

8] The respondent's husband Jagdish expired on 28 January 2010. For the last six years, the respondent has been pursuing the matter in order to get the proper retiral and other benefits. The order impugned in this petition was made on 14 October 2013. There was no interim relief granted by this Court. Despite all this, the petitioners have not bothered to pay the respondent dues as directed. We do not approve of this. We also do not appreciate the petitioners instituting this petition and thereafter not attending this Court or pursuing this petition despite opportunity. On the basis of mere pendency, the respondent has been denied dues payable to her. The CAT whilst making impugned order, has declined award of any interest to the respondent and therefore, we refrain from doing so.

9] However, we direct the petitioners to pay to the respondent all the monetary benefits and dues as directed by the CAT in its impugned order within a period of six weeks from today. In case, the same are not paid within a period of six weeks from today, the petitioners shall be liable to pay interest to the respondent at the rate of 8% per annum, apart from facing any other action, which the respondent may initiate for disobedience of directions made by this Court. Such interest, if the occasion so arises, shall be first paid by the petitioners and thereafter the petitioners shall fix the responsibility upon the officer/officers responsible for such delay and recover such interest amount from such officer/officers. No doubt, the petitioners shall comply with principles of natural justice before doing so. Our anxiety is that the State ex-chequer is not unnecessarily burdened on account of indolence on the part of the officers responsible.

10] This petition is accordingly, dismissed with aforesaid directions.

11] All concerned to act on the basis of authenticated copy of this order.

(CHIEF JUSTICE)

(M.S.SONAK, J.)