

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

CONTEMPT PETITION NO.2 OF 2012

IN

WRIT PETITION NO.3631 OF 2000

Tejram S/o Maroti Panchbhai

-VS-

Shri C.R. Borkar, Divisional Chairman, Maharashtra State Secondary and Higher Secondary
Education Board, Nagpur and ors

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr.A.H. Jamal, counsel for the petitioner.

Mr.K.V. Deshmukh, counsel for the R-2,5,6, & 7 .

Mr.N.S. Warulkar, counsel for the R-3.

Mr.N.R. Rode, AGP for the R-1.

CORAM : SMT. VASANTI A. NAIK &
V. M. DESHPANDE, JJ.

DATE : MARCH 31, 2016.

By this contempt petition, the petitioner seeks an action against the respondents for willful disobedience of the directions in the judgment dated 3.3.2005 in Writ Petition No.3631 of 2000.

The respondents issued the notice of superannuation to the petitioner at the age of 58 years. According to the petitioner, the petitioner was entitled to retire on superannuation at the age of 60 years and, therefore, he filed the writ petition bearing Writ Petition No.3631 of 2000 with the following prayers:

Prayers:-(a) To quash and set aside the impugned notice dated 3.3.2000 issued by the respondent No.4-headmaster by appropriate writ or direction.
(b) To issue a writ of certiorari and mandamus to the respondent No.2-Education Officer, Zilla

Parishad, Bhandara and the respondent No.4-Management go give the petitioner benefits of superannuation at the age of 60 years and not 58 years as has been mentioned in the impugned notice.

This Court allowed the writ petition filed by the petitioner by the judgment dated 3.3.2005 after holding that the petitioner was entitled to continue in service, till the age of 60 years. Admittedly, the petitioner has crossed the age of 60 years on 31.10.2000 and the petition was allowed on 3.3.2005. The petitioner, therefore, could not have continued to work. This Court made the Rule absolute in terms of prayer clauses (a) and (b), that have been quoted in the earlier part of this order. In terms of prayer clause (a), the impugned notice of termination dated 30.9.2000 was quashed and set aside. As per prayer clause (b), the petitioner would only be entitled to the benefits of superannuation at the age of 60 years. This would mean that the petitioner would be entitled to the retiral benefits, as the petitioner had admittedly crossed the age of 60 years on the date of the judgment. The petitioner had not made the prayer for grant of salary for the period from the date of his retirement at the age of 58 years, that is 31.10.2000, till the age of he attaining the age of 60 years, that is 31.10.2002. There is no specific direction in the judgment of which the contempt is alleged that the petitioner should be paid the arrears of salary for the period of two years. It is admitted that the petitioner has received the pension and the other retiral benefits by considering that the petitioner has retired

on attaining the age of 60 years. The petitioner has sought action against the respondents only because they have not paid the arrears of salary or backwages to the petitioner for the period of two years during which he has not worked. In the absence of any prayer in that regard and any direction by this Court to the respondents to pay the arrears of salary for the period during which the petitioner has not worked, it cannot be said that the respondents have disobeyed the direction issued by this Court.

In the circumstances of the case, we dispose of the contempt petition with no order as to costs.

The respondent Nos.2 and 5 are permitted to withdraw the amount of Rs.50,000/- deposited in this Court in terms of the *interim* direction issued in this contempt petition.

JUDGE

JUDGE

!! BRW !!