

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

MISC. CIVIL APPLICATION NO.1136 OF 2014
IN WRIT PETITION NO.6812 OF 2013
(Matru Seva Sangha and others vs. Union of India and others)

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

Shri S. Dewani, Advocate for applicants/petitioners.
Shri A.R. Chutake, Assistant Government Pleader for
respondent nos.2 and 3.

CORAM : SMT. VASANTI A NAIK AND
KUM. INDIRA JAIN, JJ.

DATED : SEPTEMBER 28, 2016

By this miscellaneous civil application, the applicants/petitioners seek a review of the order dated 22/8/2014 dismissing the writ petition filed by the applicants in limine as the applicants had not challenged the decision of the Central Government that was communicated to the applicants vide communication dated 26/8/2013.

It is stated on behalf of the applicants that a reference was made in the affidavit-in-reply filed on behalf of the respondent nos.2 and 3 to the writ petition that the request of the applicants for applicability of the recommendations of the VI Pay Commission was rejected by the Central Government and the said decision was communicated to the applicants by the communication dated 26/8/2013. It is stated that though the respondents issued a communication to the applicants on 26/8/2013 for informing them about the decision, the

said communication was not received by the applicants. It is stated that as the writ petition was dismissed mainly because the decision of the Central Government was not challenged by the applicants, it would be necessary to recall the order dated 22/8/2014 and hear the writ petition on merits.

Shri Chutake, the learned Assistant Government Pleader appearing on behalf of the respondent nos.2 and 3, states by referring to the affidavit-in-reply filed in the miscellaneous civil application that the communication dated 26/8/2013 was issued to the original petitioners/applicants and the said fact could be depicted from the outward register. It is, however, fairly admitted that there is nothing on record to prove that the said communication was actually served on the applicants.

On hearing the learned Counsel for the parties, it appears that the order that is sought to be reviewed is based mainly on the statement made on behalf of the respondent nos.2 and 3 that the decision of the Central Government rejecting the representation of the applicants/petitioners for applying the recommendations of the VI Pay Commission to the employees of the applicant Sangh was communicated to the applicants and the applicants have not challenged the same. As we find that there is absence of material to show that the communication was actually served on the applicants and the applicants were aware about the decision of the Central Government, it would be necessary to recall the order dated 22/8/2014 and hear

the writ petition on merits.

Since we find that the order that is sought to be reviewed is based only on the fact in regard to the service of the communication on the applicants about the decision of the Central Government and the absence of challenge to the said decision by the applicants and since we find that the communication was not served on the applicants, we recall the order dated 22/8/2014 and direct the Registry to place the writ petition for admission and hearing before the appropriate Bench.

The miscellaneous civil application is allowed in the aforesaid terms and disposed of with no order as to costs.

JUDGE

JUDGE

khj

CERTIFICATE

I certify that this order uploaded is a true
and correct copy of original signed order.

Uploaded by :

Kamal H. Jeswani
Private Secretary

Uploaded on :

30/9/2016