

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

CIVIL APPLICATION [O] NO.1297 OF 2012

IN

MISC. CIVIL APPLICATION ST. NO.19665 OF 2012

IN

WRIT PETITION NO.1341 OF 2012 [D]

[The Lady Yashodarabai Joshi Ladies Club, Camp, Amravati and one .vs. The State of Maharashtra and others]

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

Court's or Judge's orders

Shri A.S. Kilor, counsel for the applicants,
Shri N.R. Rode, A.G.P. for respondent nos.1 to 3,
Shri A.M. Ghare, counsel for respondent no.4.

CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATED : JULY 22, 2016.

Heard.

We find that since the applicants had approached the Hon'ble Supreme Court and the Hon'ble Supreme Court had granted liberty to the applicants to take up appropriate proceedings in the High Court, we condone the delay in filing the review application.

The Civil Application is allowed and disposed of.

MISC. CIVIL APPLICATION ST. NO.19665 OF 2012

By this review application, the applicants seek a review of the judgment and order, dated 15.6.2012, as far as it directs the applicants to pay the arrears and difference of salary as per the recommendations of the sixth pay commission with nine percent interest.

It is stated on behalf of the applicants, which run the school that is not brought in grand-in-aid and in which the

original petitioner was working, that as per the Government Resolution of the year 2010, the recommendations of the sixth pay commission were made applicable to the employees of the school from 1.1.2006. It is stated that as per the Government Resolution, dated 21.5.2010, the grand-in-aid schools were required to pay the difference of arrears of salary to the employees in lump-sum, but the managements of the non grant-in-aid schools were permitted to pay the difference in salary by collecting Rs.50/- additionally from every students. It is stated that since, for the first time in the year 2010, the applicants were made aware that the sixth pay commission recommendations would be applicable to its employees and the arrears and difference of salary should be paid after collecting Rs.50/- each from every student additionally, it was not possible for the applicants to pay the arrears of salary to all its employees, within a reasonable time. It is stated that the grand-in-aid schools were not aggrieved by the policy in the Government Resolution to pay the entire arrears of salary in lump-sum as per the sixth pay commission recommendations, as the said salary would have been received from the government exchequer. However, it is stated that non grant-in-aid schools like the applicants were placed at the mercy of the students from whom they were permitted to collect Rs.50/- additionally. It is stated that no permission was granted to the managements (non grant-in-aid) like the applicants to charge higher fees from the students from the year 2006 till the year 2010, when the Government Resolution was issued. It is stated that, in this background, it was necessary for this court to consider that the Government Resolution was applicable to the non grant-in-aid schools and the grand-in-aid schools differently and it was not, therefore, possible for the non grant-in-aid schools to pay the arrears of difference of salary to its employees, as per the sixth pay

commission recommendations, immediately. It is stated that great hardship would be caused to the applicants, if they are required to follow the direction to pay the arrears of salary as per the recommendations of the sixth pay commission with interest. It is stated that on the date, when the order that is sought to be reviewed was passed, the management-applicants was not represented in the court and probably because of the absence of the counsel, the Government Resolution was not pointed out and a direction to pay the arrears within three months with interest was passed.

Shri Ghare, the learned counsel for respondent no.4-original petitioner, has opposed the prayer made in the review application. It is stated that a review application was filed in this court earlier, but the same was dismissed. It is stated that though the applicants had challenged the said order before the Hon'ble Supreme Court, the Hon'ble Supreme Court has not granted liberty to the applicants to file another review application. It is stated that the review application is not maintainable. It is, however, not disputed that on the date on which the order that is sought to be reviewed was passed, the management was not represented in the court and the different yardstick for the implementation of the policy in the government resolution for non grant-in-aid or grant-in-aid schools was not pointed out.

On hearing the learned counsel for the parties, we find that this court had not considered the relevant government resolution that directed the grand-in-aid schools to pay the entire arrears of difference of salary, whereas the non grand-in-aid schools were permitted to pay the arrears of salary to their employees, after collecting additional fees of Rs.50/- from the students. We find that the managements of either aided schools or unaided schools were not put to notice that the sixth pay

commission recommendations would be implemented for their employees with effect from 1.1.2006. The managements (unaided) like the applicants were also not permitted to charge additional fees from the students, keeping in view that the sixth pay commission recommendations could be applied to them from 2006. We find that these aspects of the matter were not considered while passing the order that is sought to be reviewed. We find that it would be very harsh to direct the applicants to pay interest at the rate of nine percent per annum on the amount that was liable to be paid to the original petitioner.

Though a review application was filed earlier, the facts stated hereinabove were not brought to the notice of this court and since the Hon'ble Supreme Court has granted liberty to the applicants to move this court again, though it is not specifically mentioned that it could be a review application, in the circumstances of the case, we are inclined to entertain the review application.

Hence, we allow the review application. We set aside the order in the judgment, dated 15.6.2012 so far as it directs the management-applicants to pay interest at the rate of nine percent per annum on the amount that was due and payable to the original petitioner. We are inclined to pass this order also with a view to ensure that the other employees to whom the arrears were not paid due to the aforesaid difficulties should not claim interest at the rate of nine percent per annum on the dues that are liable to be paid to them on the basis of the order that is sought to be reviewed. The judgment that is sought to be reviewed is modified only to the aforesaid extent. The review application is allowed and disposed of.

JUDGE

JUDGE

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

CONTEMPT PETITION NO.270 OF 2012

IN

WRIT PETITION NO.1341 OF 2012 [D]

[Umashankar s/o Ramsaran Singrol .vs. Harshada P. Pande, Secretary, Lady Yashodharabai Joshi
Ladies' Club, Amravati and others]

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

Court's or Judge's orders

Shri A.M. Ghare, counsel for the petitioner,
Shri A.S. Kilor, counsel for the respondents.

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CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATED : JULY 22, 2016.

By this contempt petition, the petitioner seeks a direction against the respondents under the Contempt of Courts Act, 1971 for willful disobedience of the judgment, dated 15.6.2012.

It is the case of the petitioner that despite a direction by this court to the respondents to pay the arrears of difference of salary as per the recommendations of the sixth pay commission with interest at the rate of nine percent per annum, the respondents have not paid the arrears and difference of salary with interest.

Shri Kilor, the learned counsel for the respondents, states that though there was some delay in making the payment of the arrears of salary as per the recommendations of the sixth pay commission to the petitioner, the delay is not deliberate. It is stated that the respondents had to collect additional fees of Rs.50/- from every student so as to pay the amount, as per the order, of which the contempt is alleged. It is stated that since the judgment, dated 15.6.2012 is reviewed and the direction to pay

interest is set aside, it would not be necessary for the respondents to pay interest to the petitioner on the amount of arrears and difference of salary as per the recommendations of the sixth pay commission.

On hearing the learned counsel for the parties, we find that though there is some delay in making the payment of arrears of difference of salary, as per the recommendations of the sixth pay commission, the same does not appear to be deliberate. It would, therefore, not be necessary to proceed against the respondents in this contempt petition, any longer. Since the direction to pay interest is set aside, by an order in the review application filed by the respondents, it would not be necessary for the respondents to pay interest on the amount.

In the aforesaid set of facts, we dispose of the contempt petition, with no order as to costs.

JUDGE

JUDGE

Gulande, PA

C E R T I F I C A T E

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