

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

C.A.W. NO.2355/2015 IN WRIT PETITION NO.3389/2014

Ratneshwar Vyayam Krida Va Shikshan Prasarak Mandal, Amani and another

..VS..

The Presiding Officer, School Tribunal, 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 P.S. Patil, Advocate for the petitioners.
Shri A.B. Patil, Advocate for respondent No.2.
Shri K.R. Lule, A.G.P. for respondent Nos 1 and 3.

CORAM : Z.A.HAQ, J.

DATED : 5.8.2016.

The respondent No.2 - employee has filed this application praying that proceedings under Contempt of Courts Act be initiated against the petitioners as Clause (3) of the operative order of the School Tribunal is not complied. The respondent No.2 has also prayed that the petition be dismissed for non-compliance of Clause (3) of the operative order of the School Tribunal.

This Court passed an order on 11th April, 2016 directing the petitioners to submit the details of calculations made by them while depositing the amount of Rs.99,000/- with the Registry of this Court in January, 2016. Accordingly, the petitioners have placed on record the calculations.

Clause (3) of the operative order of School Tribunal reads as follows:

“3. The respondents are directed to reinstate the appellant within 30 days after opening of the school in the academic session 2014 - 2015. If they fail to reinstate the appellant on his former post, the respondent No.1 and 2 are liable to pay 50% back salary to the appellant since date of filing of present appeal.”

According to the petitioners, at the time of termination of service the respondent No.2 was paid fixed amount of salary at the rate of Rs.5,500/-per month and in support of this contention the petitioners relied on the document at page No.71 of the paper book which is appointment order dated 13th August, 2005. According to the petitioners, the amount of Rs.99,000/- deposited by them is calculated on the basis that salary receivable by the respondent No.2 was Rs.5,500/- per month. The learned Advocate for the respondent No.2 has submitted that the respondent No.2 was not paid anything till his services were terminated. It is further submitted that Clause (3) of the operative part of order of School Tribunal means that the amount of 50% of the salary receivable by the respondent No.2 has to be calculated on the basis of pay-scale of the post in which the respondent No.2 had been working. There is a dispute about the appointment order dated 13th August, 2005.

Considering the facts on record, in my view, petitioners will have to deposit an amount equivalent to 50% of the salary receivable by the respondent No.2 as per the

pay-scale.

There is dispute about the period for which the amount has to be paid/deposited. According to the petitioners, the amount has to be calculated from the date on which the appeal was registered by the School Tribunal after the delay in filing the appeal was condoned. According to the respondent No.2, the amount has to be calculated from the date of filing of the appeal before the School Tribunal. In the circumstances of the case, in my view, it would be appropriate that the petitioners deposit the amount by considering the period from the date of registration of the appeal after the delay was condoned.

After adjusting the amount of Rs.99,000/- deposited by the petitioners with the Registry of this Court, the petitioners shall deposit the balance amount within two months. If the balance amount is not deposited or if the calculations are not properly made, the interim order granted by this Court on 23rd November, 2015 shall stand vacated without reference to Court. If the amount is deposited by the petitioners within time, it shall be kept in fixed deposit in nationalized bank till the decision of the writ petition. The civil application is disposed in the above terms. No costs.

JUDGE

CERTIFICATE

“ I certify that this Judgment/Order uploaded is a true and correct copy of original signed Judgment/Order”.

Uploaded By : N.V. Tambaskar.
Personal Assistant.

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