

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

CIVIL APPLICATION (CAW) NO. 2432 OF 2015
IN
WRIT PETITION NO. 915 OF 2014

Pascal Rafial Anthony Vs. MSRTC Nagpur & Ors.

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

Court's or Judge's Order

Shri M. V. Mohokar Adv for petitioner.
Shri V. H. Kedar Adv for respondents.

CORAM: A. S. CHANDURKAR J.

DATED: 5th FEBRUARY, 2016.

Heard. Prayer is to recall the order dated 09.06.2015 passed in Writ Petition No. 915 of 2014. It is submitted on behalf of the applicant that though the complaint filed by the applicant had been dismissed for want of prosecution on 13.02.2015, a separate application for restoration of the complaint had been filed. On 13.03.2015 while issuing notice on said application the Labour Court had granted ad interim relief in terms of prayer (II). However, on 10.04.2015, the Labour Court rejected the prayer for interim relief but continued the ad interim relief till 15.04.2015. The applicant preferred a revision application and on 16.04.2015 the Industrial Court directed the parties to maintain status quo as on said date. It is, therefore, submitted that on 09.06.2015 when the Writ petition was disposed of an order of status quo was operating in favour of the applicant. It is further submitted that the order of dismissal was served on the applicant on 16.03.2015 after the

order granting ad-interim relief came to be passed. It is therefore submitted that the writ petition ought to have been heard on merits as it was not rendered infructuous.

The application is opposed by Shri V. H. Kedar, learned counsel for the non-applicants. It is submitted that the complaint was dismissed on 13.02.2015 and was restored only on 03.10.2015. He, therefore, submits that as the services of the applicant had been dismissed vide order dated 12.03.2015, the writ petition was rightly disposed of.

In Writ Petition No. 915 of 2014 this Court had directed the parties to maintain status quo on 18.02.2014. On 09.06.2015 the writ petition was disposed of by considering the statement made on behalf of the non applicants that the complaint was dismissed for want of prosecution and the applicant was dismissed from service on 12.03.2015. The fact that on 13.03.2015 on the application for restoration of the complaint, the Labour Court had issued notice and had granted ad interim relief was not brought to the notice of the Court. The Industrial Court thereafter on 16.04.2015 passed an order of status quo which was operating on 09.06.2015. Hence, the writ petition could not be treated as having been rendered infructuous. These aspects though not pointed out on 09.06.2015, the same deserve to be taken into consideration. As in proceedings for restoration of the complaint certain interim orders were operating, the order dated 09.06.2015 is recalled. The writ petition is restored to file for consideration on merits. Civil Application is accordingly allowed with no order as to costs.

JUDGE