

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CONTEMPT PETITION NO. 214 OF 2016
IN WP/6734/2014

BAPU DIGAMBER SHENDGE
VERSUS
DATTATRAYA BHAUSAHEB MORE

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Advocate for Petitioner : Shri V.V.Bhavthankar
Advocate for Respondent : Shri D.S.Bagul

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CORAM : RAVINDRA V. GHUGE, J.
Dated: February 08, 2017

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PER COURT :-

1. Shri Bagul, learned Advocate submits on instructions from the respondent as under:-

(a) Shri N.F.Muley, who was occupying the post of Head Artisan Blacksmith and belonged to OBC, retired on 31.5.2011.

(b) Shri M.P.Yammulwad was given the temporary charge of the said post, pending decision of the MSRTC.

(c) Shri Yammulwad preferred Complaint (ULP) No.124 of 2012 before the Industrial Court.

(d) His charge as Head Artisan Blacksmith was protected by the interim orders of the Industrial Court.

(e) The Writ Petition No. 8455 of 2013 filed by the MSRTC and Writ Petition No. 2882 of 2013 filed by Shri Yammulwad, were heard together and disposed off with a direction to the Industrial Court to decide the ULP Complaint.

(f) By judgment dated 25.3.2014, the Industrial Court allowed the ULP Complaint, confirming Shri Yammulwad as Head Artisan Blacksmith.

(g) This Court in Writ Petition No.6734 of 2014 filed by the petitioner, set aside the judgment of the Industrial Court and allowed the petition by its judgment dated 10.8.2015.

(h) Since Shri Yammulwad was in charge as Head Artisan Blacksmith, he has been paid the salary for the said post.

(i) By the judgment of this Court dated 10.8.2015, Shri Yammulwad would no longer have a right to the post and the

petitioner would be promoted to the said post with effect from 1.6.2011. However, the monetary benefits will have to be given from 10.8.2015, which is the date of the judgment of this Court considering the above circumstances.

2. Though Shri Bhavthankar has strenuously contended that the very appointment of Shri Yammulwad as Head Artisan Blacksmith was unsustainable and the petitioner should be given the monetary benefits from 1.6.2011, I am unable to accept the said contention. The Corporation cannot pay two employees for the same post. Shri Yammulwad was permitted to work on the said post considering the orders of the Industrial Court. He would legitimately have a right to the additional salary as is admissible to the said post. It is under fortuitous circumstances that the petitioner was kept at bay, in the light of the above.

3 Considering the statement of the respondent that a proper order of promotion would be issued to the petitioner w.e.f. 1.6.2011 on the post of Head Artisan Blacksmith pursuant to the retirement of Shri Muley on 31.5.2011, with monetary benefits from the date of the judgment of this Court, which is 10.8.2015, I am of the view that there is substantial compliance of the order of this Court. The respondent has not willfully, intentionally or

deliberately committed any dis-obedience of the orders of this Court.

4. By recording the above said statement, the Contempt Petition stands disposed off.

(RAVINDRA V. GHUGE, J.)

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