

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.182/2016
IN
WRIT PETITION NO.3348/2002

Kacharu babasaheb Shaikh & Ors. ... Petitioner
V/s.
The General Manager, MSRTC & Ors. ... Respondents

Mrs. Anjali N. Helekar for the petitioner
Mr. G. K. S. Hegde for the Respondent No.1

CORAM: K.K. TATED, J.
DATED : MARCH 20, 2017

PC. :

1. Heard the learned counsel for the parties. By this Contempt Petition, the petitioner is seeking an action against the respondent for non compliance of order dated 20.08.2015 passed by this court (N. M. Jamdar, J.) in Writ Petition No.3348/2002.
2. In the present proceedings, initially, the petitioner had filed complaint (ULP) No.128/1987 in the Labour Court, Solapur. The Labour Court, by order dated 18.03.1998 allowed the complaint and declared that the dismissal order of the petitioner was bad in law and the petitioner was entitled to reinstatement w.e.f. 26.05.1987 with full back wages and continuity of service.
3. Being aggrieved by the said order, the respondent Corporation made Revision Application (ULP) No.43/2008 which was partly

allowed by the Industrial Court by order dated 15.04.2002. The Industrial Court did not interfere with the direction to reinstate the petitioner however, deprived the petitioner from back wages and continuity of service. The said order was challenged by the petitioner before this court by filing Writ Petition No.3348/2002.

4. This court, by order dated 20.08.2015 allowed the Writ Petition filed by the petitioner holding that the relief sought by the petitioner regarding continuity of service will have to be granted, as he was wrongly deprived of the same by the Industrial Court. This court held that the respondent Corporation to grant continuity of service to the petitioner w.e.f. 26.05.1987 for the purpose of terminal benefits.

5. Thereafter the petitioner, by various letters called upon the respondent Corporation to pay his back wages and other benefits as per order dated 20.08.2015 passed by this court. As the respondent Corporation failed and neglected to comply with the order passed by this court, the petitioner filed the present Contempt Petition for taking an appropriate action against the respondent. During the course of arguments on last occasion, the advocate for the respondent admitted that as per their calculation they are liable to pay sum of Rs.2,18,185/- to the petitioner. Thereafter they issued a cheque of the said amount in favour of the petitioner.

6. The learned counsel for the petitioner submits that as per her calculation, more than Rs.25,19,590/- is due and payable by the respondent Corporation towards the petitioner's gratuity and back wages.

7. The learned counsel for the respondent Corporation submits that whatever amount was due and payable by them, they have already paid to the petitioner during pendency of the Writ Petition i.e. a sum of Rs.2,18,185/-. Hence, there is no substance in the Contempt Petition and same is liable to be dismissed.

8. Heard both sides. It is to be noted that how much is due and payable to the petitioner as per order dated 26.05.1987 passed by the Labour Court in complaint (ULP) No.128/1987 is required to be calculated. For that purpose, both the parties have to place on record their calculations as well as the supporting documents, which is not possible to do in the present Contempt Petition. Considering these facts, I do not find any reason to entertain the Contempt Petition.

9. Hence, following order is passed:

a. Liberty granted to the petitioner to move before the appropriate authority/tribunal for calculating the exact amount due and payable by the respondent as per order dated 26.05.1987 passed by the Labour Court, Solapur in complaint (ULP) No.128/1987, within one month from today.

b. If an application is made by the petitioner before the appropriate court for calculating the amount due and payable by the Corporation, same shall be decided on its own merits without raising any objection about delay, for which the learned counsel for the respondent has no objection.

c. Contempt Petition stands disposed of accordingly.

d. No order as to costs.

(K.K. TATED, J.)