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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CONTEMPT PETITION NO.248 OF 2016
IN
WRIT PETITION NO.3416 OF 2006**

Mohd. Jahedul Islam s/o M. A. Majid,
Age: 23 years, Occu: Student,
R/o: House No.8-12-27, Kaisar Colony,
Aurangabad

..PETITIONER

VERSUS

1. Godawari Marathwada Irrigation
Development Corporation, Through
Superintendent Engineer, Aurangabad
Irrigation Circle, Aurangabad
2. Dr. Mrs. Kalpana Patil Bharaswadkar,
R/o: 112, Saafalya, Shastri Nagar,
Aurangabad
(deleted as per Court's order)
3. The Chief Secretary,
Irrigation Department, Mantralaya,
Mumbai
4. Superintendent Engineer,
AIC, Aurangabad

..RESPONDENTS

Mr Sk. Mazhar A. Jahagirdar, Advocate for petitioner;
Mrs R. D. Reddy, Advocate for respondent Nos.1 & 4

**CORAM : PRASANNA B. VARALE
AND
MANISH PITALE, JJ.**

DATE : 28th September, 2018

ORAL ORDER:

Heard learned Counsel appearing on behalf of the petitioner.

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2. It is the grievance of the petitioner that respondent Nos.1, 3 and 4 have failed to comply the order passed by this Court and this non-compliance be treated as willful disobedience of the order of this Court.

3. Learned Counsel for the petitioner invited our attention to the orders passed by this Court in Writ Petition No. 3416 of 2006, Writ Petition No.3403 of 2005 as well as Writ Petition No.2348 of 2006.

4. Writ Petition No.3416 of 2006 was filed by the Corporation, namely, Godawari Marathwada Irrigation Development Corporation through its Superintending Engineer, challenging the judgment and order passed by the learned Member of Maharashtra Administrative Tribunal, Mumbai, Bench at Aurangabad, dated 10th November, 2005. The Division Bench of this Court could not find any favour with the petitioner Corporation and the petition was dismissed. The Division Bench of this Court, in order dated 16th September, 2014 observed that the Tribunal directed the Corporation - employer of the respondent to pay back-wages of the respondent to the extent of 50% for the period between 26th July, 1985 and 22nd February, 1994 with consequential benefits. The Tribunal also directed the petitioner - employer to pay subsistence allowance to the respondent w.e.f. 23rd February, 1994 to 15th November, 1996.

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5. In view of the order passed in the petition filed by the Corporation, the Division Bench was of the opinion that the petitions filed by the petitioners, namely, Md. Arif s/o Md. Abdul Majid and Mohammad Abdul Majid would not survive and those two petitions, as such, were disposed of treating them as infructuous.

6. The sequence of the events then shows that in view of the order passed by the Division Bench of this Court, what was surviving in substance was the order passed by the Tribunal. As many as three replies are filed on behalf of the Corporation. It may not be necessary to refer to all the details, suffice it to say that it is the stand of the Corporation that there is a substantial compliance of the order of the Tribunal.

7. Learned Counsel for the petitioner submits that various charts are submitted before this Court to show that the petitioner would be entitled to receive an amount of Rs.1,30,523/- against his claim as per the order of the Tribunal. Then he submits that the Corporation deposited the amount of Rs.1,25,000/- in this Court by way of a cheque and a copy of the said cheque is also placed on record. Perusal of the copy of cheque shows that the said cheque was issued on 8th February, 2007 in favour of the Registrar of this Court. He then submits that the petitioner was also permitted to withdraw part of the amount i.e. 50% of the amount deposited by the

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Corporation in this Court.

8. Considering all the aforesaid facts, we are of the opinion that though in strict sense, we could not take cognizance of the contempt as in related decision the contempt of the tribunal's order but as certain amount is deposited in this Court by the Corporation against certain service claim of the petitioner and the petitioner has withdrawn the part of the amount and by permitting the petitioner to withdraw the part of the amount deposited in this Court would only meet the ends of justice.

9. Without going into other technicalities, the petitioner is permitted to withdraw remaining 50% of the amount which is lying in this Court against deposit of cheque to the tune of Rs.1,25,000/- along with the interest accrued thereon. The petitioner if is having any grievance for his other service benefits, he is at liberty to avail other remedies under the law, if so advised.

With these directions, the petition is disposed of accordingly.

(MANISH PITALE, J.)

(PRASANNA B. VARALE, J.)

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