

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

CONTEMPT PETITION NO.543 OF 2016

(Tulshiram Laxman Naik Vs A.K. Das and others)

Mr.Suresh M. Kulkarni, Advocate for the petitioner
Mr.R.B.Bagul, Advocate for respondent No.3

**CORAM : PRASANNA B. VARALE &
S.M.GAVHANE, JJ.**

DATED : 15.06.2018

P.C. :-

. Heard Mr. Kulkarni, learned counsel appearing for the petitioner and Mr. Bagul, learned counsel appearing for respondent No.3.

2. The petitioner is before this Court thereby submitting that respondent committed willful disobedience of the order of this Court dated 08.10.2015 as such they be punished in accordance with the provision of law. The order of this Court dated 08.10.2015 is placed on record at Exh.A. The petitioner was before this Court in the writ petition No.4250/2005 challenging the action which was the subject matter in an application before the Administrative Tribunal. The Division Bench of this Court in its order was pleased to observe that only question for consideration before this Court was whether the

penalty awarded to the petitioner was disproportionate to the misconduct?. The Division Bench considering the provisions and the submissions of the learned counsel found that the petitioner deserves penalty of compulsory retirement and not dismissal and the order of dismissal was grossly disproportionate to be proved misconduct. Resultantly, the petition was disposed of by making rule absolute in the terms that the penalty awarded to the petitioner stands reduced to the compulsory retirement w.e.f. 05.02.2002. Clause-2 of the order would be more material for our consideration to which reads as petitioner should be awarded pensionary benefits as per the rules within six months from the date of the order. The grievance of the contempt petitioner is in respect of his repeated request to the respondent authorities to comply the order of this Court authorities paid no heed. On going through the reply filed by respondent No.3 Rajratan Tayde it reveals that the respondents are before this Court with an assurance that they are ready to implement the order of this Court. It is submitted in the affidavit-in-reply that the petitioner was to provide necessary documents and certain information. In failure of submitting those documents by the petitioner to the authorities the authorities were unable to comply order of this Court. It is also stated in the affidavit-in-

reply that if the petitioner cooperate the respondent authorities to comply with all the necessary formalities the respondent authorities will be in a position to implement the order of this Court dated 08.10.2015. Though Mr. Kulkarni, learned counsel appearing for the petitioner submitted that the petitioner in fact approached to the authorities but certain technical objections were raised. In our opinion it may not be necessary to go into all those details and controversial statements raised against each other. In our opinion if the petitioner appears before respondents and submits all necessary documents, this will help the authorities to comply the order of this Court. Accordingly we put a specific query to Mr. Kulkarni, learned counsel appearing for the petitioner to submit before us suitable date for the petitioner for attending the respondent authority alongwith all the documents. Mr. Kulkarni, learned counsel appearing for the petitioner submits that the petitioner is ready to appear before respondent No.3 i.e. Sr. Superintendent of Post Office, Dhule Division, Dhule on 25.06.2018 along with all the documents. The learned counsel appearing for the respondents makes a statement before this Court that respondent No.3 will verify these documents and if these documents are in compliance of the requisite formalities he will accordingly endorse to that

effect and if there is any short fall of the documents he will inform the petitioner about the short fall of the documents by way of written intimation. If such an intimation is given to the petitioner, the petitioner to submit before the authorities the stipulation of period in which the petitioner would comply all the short fall and submit a complete proposal before authorities. On receipt of such complete proposal the respondent authorities to take steps to award the pensionary benefits as per rules within a period of ten weeks thereafter. The above mentioned exercise, in our opinion, would redress the grievance of the petitioner and thereby would meet an end of justice. Learned counsel appearing for the respondent submit that the respondent has tendered unconditional apology and there was no intention of the authorities to give a go by to order of this Court but for communication gap and non-submissions of the necessary documents, the authorities were unable to comply the order of this Court.

3. Mr. Kulkarni, learned counsel appearing for the petitioner submits that if, amount of the pensionary benefits disbursed to the petitioner, is not as per his entitlement, the petitioner be granted liberty to avail the remedy available under law. Needless to state that if

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such occasion arises, the petitioner may avail such remedies available under law before the appropriate forum including judicial forum. The petition is disposed of accordingly.

[S.M.GAVHANE, J.]

[PRASANNA B. VARALE, J.]