

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

CONTEMPT PETITION NO. 488 OF 2017
IN
WRIT PETITION NO. 4679 OF 2016

Kewalbai w/o Narsing Udekar
Age: 57 years, Occ: Housewife
R/o :Sant Kabir Nagar, Udgir,
Tq. Udgir, Dist. Latur

...Petitioner

Versus

Nitin Gulabrao Kapadnis
Age : Major, Occ. Chief Officer,
Municipal Council, Udgir,
Tq. Udgir, Dist. Latur.

...Respondent

Mr. R.S. Shinde, Advocate for Petitioner
Mr. P.V. Barde, Advocate for Respondent sole
Mr. S.S. Dande, AGP for State

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

DATE: 21st SEPTEMBER, 2018

ORAL ORDER :

1. The petitioner is before us for non-compliance of the order of this Court dated 17.04.2017 in Writ Petition No. 4679/2016. A perusal of the order dated 17.04.2017 shows that bunch of petitions was disposed of by the Division Bench of this Court. The present petitioner - Kewalbai Narsing Udekar was petitioner in Writ Petition No.4679/2016. It was grievance of the petitioner that though the husband of the petitioner stood retired from the

service of respondent – Municipal Council long back and though he was entitled for pensionary and retiral benefits till date of filing of the petition, such benefits were not granted in favour of the husband of petitioner.

2. Considering the rival submissions as well as the decisions of the Hon'ble Apex Court, the Division Bench of this Court was pleased to dispose of the Writ Petition with a direction to the respondent-Municipal Council to pay the amount due and payable to the petitioner towards the difference in 6th Pay Commission and admissible retiral benefits within a stipulated period of three months. It was further directed to the Municipal Council to pay interest @ 6 % per annum on the amount of retiral benefits. The amount of interest was directed to be paid expeditiously and preferably within a period of four months from the date of order of this Court. The learned Counsel submitted that the petitioner by way of an affidavit submitted undertaking to the Chief Officer of Municipal Council, Udgir that the petitioner had filed only the Writ Petition in this Court for the benefits due and payable to the husband of the petitioner. The learned Counsel for the petitioner submitted that by way of communication dated 23.06.2017, the petitioner was informed that already proceeding was initiated at the instance of Union namely, Marathwada Lal Bawta Kamgar Union, Udgir and in the

other parallel proceeding, the Municipal Council already deposited the amount to the tune of Rs. 46,45,584/- along with 12% interest. The learned Counsel submitted that the petitioner was not aware of any such proceeding initiated by the husband of the petitioner and as per the petitioner, the husband of the petitioner was not even the member of the union.

3. The learned Counsel appearing for respondent - Municipal Council, Mr.Barde submitted that respondent - Municipal Council has not committed any willful disobedience of the order of this Court. On the contrary, the petitioner approached this Court with incomplete material and instructions. Learned Counsel appearing for respondent - Municipal Council by inviting our attention to the affidavit-in-reply filed on behalf of the Chief Officer of Municipal Council, Beed, Mr. Nitin Gulabrao Kapadnis submitted that the Union had filed an application Under Section 33-C(1) of the Industrial Disputes Act, 1947 (Herein referred to as the I.D. Act) claiming pensionary benefits as well as the difference of 6th Pay Commission and order was passed and recovery certificate was issued under the provisions of Section 33-C(1) of the I.D. Act on 23.02.2015. The name of the petitioner is shown at Sr. No. 194 in the list at page No. 33 in application U/s.33-C(1) of the I.D. Act. In pursuance to the recovery certificate, the Collector, Latur has started recovery of the amount from the Municipal Council on

receiving the communication from the Assistant Commissioner of Labour, Latur deposited entire undisputed pensionary benefits payable to the petitioner under recovery certificate issued U/s. 33-C(1) of the I.D. Act and discharged liability with 15 % interest. Thus, it is the submission of Mr. Barde, the learned Counsel that the respondent – Municipal Council cannot be fastened with a double liability for payment of the amount. Mr. Barde also invited our attention to the communication placed along with the affidavit-in-reply i.e. a communication and order passed by the Collector, Latur dated 16.05.2015. The certificate issued U/s. 33-C(1) of the I.D. Act dated 23.02.2015. The learned Counsel then submitted that the respondent had already deposited the amount in the office of the Assistant Commissioner of Labour, Latur and the petitioner may approach to the concerned authority, namely, the Assistant Commissioner of Labour, Latur for receipt of the amount. Though the learned Counsel for the petitioner made an attempt to submit before us that the petitioner be permitted to add the other parties to this Contempt Petition and these parties be called upon before this Court for further direction, we are of the opinion that by permitting the petitioner to approach the concerned officer namely, the Assistant Commissioner of Labour, Latur with a proper representation and by issuing certain directions to the

Assistant Commissioner of Labour, Latur will serve the purpose and would redress the grievance of the petitioner. Learned Counsel Mr. Barde was justified in submitting that there is no willful disobedience of the order of this Court and it was only because of the parallel proceeding pending before two Forum and peculiar situation, wherein, the order was passed by this Court on 17.04.2017 and on the very date i.e. 17.04.2017, the amount was deposited by the Municipal Council in the office of the Collector, Latur. Though in the settled position of law, scope of contempt petition cannot be extended or expanded, but considering the above referred peculiar circumstances and considering the fact that the amount to which the husband of the petitioner was due and entitled is already protected to meet the ends of justice. We direct the petitioner to approach the Assistant Commissioner of Labour, Latur within two weeks with a representation giving all the details along with the necessary documents. The Assistant Commissioner of Labour, Latur only to verify the factum of the petitioner being a legal representative of deceased employee, to pass the order on the representation, and thereby disburse the amount to the petitioner within two weeks from the receipt of the representation by the petitioner.

4. We further make it clear that except the exercise of verification of the legal representation by the petitioner with the

deceased employee, the Assistant Commissioner of Labour, Latur may not raise any rider in the way of petitioner for disbursement of the amount.

5. We further make it clear that in case of husband of the petitioner entitled for other monetary benefits, over and above, the pensionary benefits, she is at liberty to avail the appropriate remedies for redressal of such grievance. We further make it clear that these orders are passed by us considering the peculiar circumstances and these orders shall not be relied on as a precedence in other Contempt Petitions.

6. With these directions, the Contempt Petition is disposed of.

(MANISH PITALE)
JUDGE

(PRASANNA B. VARALE)
JUDGE

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