

(1)

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

**CONTEMPT PETITION NO. 803 OF 2016
IN
LETTERS PATENT APPEAL NO.277 OF 2010**

Devidas s/o Narayanrao Dhengale,
Age: 62 years, Occ: Nil,
R/o. Ektur, Tq. Georai, Dist. Beed. ..PETITIONER

VERSUS

1. Shri. Ashokrao R. Panalkar
The Divisional Controller,
M.S.R.T.C. Beed,
Divisional Officer, Beed.
2. Shri. Santosh Shridhar Ghane,
Divisional Traffic Superintendent
(D) M.S.R.T.C. Beed,
Tq. & Dist. Beed. ..RESPONDENTS

Mr P. M. Shinde, Advocate for petitioner;
Mr A. B. Dhongade, Advocate for respondents

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

DATE : 24th AUGUST, 2018

ORAL ORDER :

Heard learned Counsel appearing for the
petitioner and for the respondents.

(2)

2. The very limited controversy is raised in the present contempt petition. It is submitted by learned Counsel appearing for the petitioner by inviting our attention to the order of the Division Bench of this Court, dated 19th November, 2014 that the respondents failed to comply the order of this Court and action of the respondents is in contravention to the order of this Court.

3. Perusal of the order dated 19th November, 2014 shows that the petitioner was before this Court challenging the order of dismissal passed by the respondent Corporation. Learned single Judge while deciding the petition directed that the petitioner's services would be treated as continuous service and the respondent Corporation was permitted to take a decision upon quantum of punishment. The Division Bench permitted the respondent Corporation to impose lesser punishment without forfeiting past service and post retirement benefits. As none appeared for the appellant, with these observations, letter patent appeal was

(3)

dismissed in default.

4. The submission of Mr. Shinde, learned Counsel, by inviting our attention to the documents placed on record at Exhibit-D at page-29 is, the order wherein the Corporation issued punishment of stoppage of three increments is in contravention to the order of this Court dated 19th November, 2014 and more particularly against the directions at paragraph-3. It is submitted by Mr. Shinde that in view of this order, the Corporation sought recovery of those benefits granted to the petitioner in the nature of grant of increments.

5. Though Mr. Shinde, learned Counsel vehemently submitted that the order dated 17th June, 2015 and recovery at the instance of Corporation as reflected in tabular form at page-30 is in contravention to the order of this Court and authorities committed an act of contempt of Court, we are unable to accept the submission of Mr Shinde for the simple reason that paragraph-3 permits the

(4)

Corporation to impose lesser punishment. The Division Bench directed the Corporation not to forfeit past service and post retirement benefits of the petitioner. By order dated 17th June, 2015 only punishment awarded is of stoppage of the increments. It is admitted by Mr. Shinde, learned Counsel for the petitioner that post retirement benefits are also awarded to the petitioner and the amount is only recovered of increments.

6. Taking into consideration all these facts, we are of the clear opinion that the order passed by the respondent Corporation imposing lesser punishment and seeking recovery of the amount of arrears is not at all in contravention to the order of this Court and it is in the tune of the order of this Court dated 19th November, 2014.

7. Considering all these facts, we are of the opinion that the action of the respondent Corporation cannot be treated as non compliance of the order of this Court or disobedience of the

(5)

order of this Court. In the fact situation, the contempt petition, as such, being meritless, deserves to be dismissed. Same is accordingly dismissed.

(MANISH PITALE)
JUDGE

(PRASANNA B. VARALE)
JUDGE

Tupe