

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.258 OF 2016

Mrs. Silvia Franklin Makasae	...	Petitioner
Versus		
Padmabhushan Vasantdada Patil Civil Hospital	...	Respondent

Nitin P. Dalvi for the Petitioner.
Vaishali Nimbalkar, AGP for the Respondent.

CORAM : S.C.GUPTE, J.

DATE : 25 JUNE 2018

P.C. :

Heard learned Counsel for the Petitioner and the learned AGP for the State. This petition challenges a judgment and order passed by the Industrial Court at Sangli, dismissing the Petitioner's complaint.

2 The chief submission of learned Counsel for the Petitioner in this petition is that the impugned order is passed by the Industrial Court by wrongly recording an admission on the part of the Petitioner herein. The controversy before the Court concerns whether or not the Petitioner passed a particular departmental examination. Passing of this examination would have entitled the Petitioner to the vacant post, which is the subject of controversy. Learned Counsel submits that far from there being any admission on the part of the Petitioner of not having passed the examination, the Petitioner has taken a categorical stand that she had appeared and passed the particular examination and even produced record

in support of such statement. If it is the Petitioner's case that her statement is wrongly recorded in the impugned order as an admission made at the hearing of the petition, she must go back to the Industrial Court and get the matter clarified. It is not for this court to go behind the order and rule on whether or not such admission was in fact made.

3 Upon this court expressing its opinion on the lines indicated above, learned Counsel for the Petitioner seeks leave to withdraw the petition with liberty to apply to the Industrial Court at Sangli for review of the order, so as to clarify and correct the position.

4 The writ petition is disposed of as not pressed with liberty to seek review of the impugned order dated 5 October 2015 in terms noted above. The Industrial Court, whilst entertaining any such review application, would consider the delay caused in applying for review as *bona fide* and on account of time spent towards challenging the impugned order before this Court. Since the Petitioner has been in continuous service right from the date of the complaint and throughout till the impugned order was passed, and even thereafter, the ad-interim order is extended in favour of the Petitioner till her review application is disposed of by the Industrial Court.

(S.C. GUPTE, J.)