

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CONTEMPT PETITION NO. 443 OF 2015

IN

WRIT PETITION NO. 6780 OF 2013

Rajaram Waman Masurkar

...Petitioner

Vs.

Lokmanya Shikshan Prasarak, Ratnagiri & Ors.

...Respondents

Mr.Sahil Salvi, Ms.Tanvi P. Sathe I/b. D.N. Salvi for Petitioner.

Mr.D.A. Sakhlakar for Respondent Nos.1 and 3.

Ms.Vaishali Nimbalkar, AGP for Respondent No2.

CORAM : S.C. GUPTE, J.

DATE : 13 AUGUST 2018

P.C. :

This contempt petition alleges breach or disobedience of an order passed by this court on 5 September 2014. The controversy in the original writ petition concerns termination of the Petitioner and his reinstatement with full backwages and incidental benefits. The termination was set aside by the School Tribunal at Kolhapur and reinstatement with all benefits was ordered. The challenge to that order by the Respondent management by Writ Petition No.2360/2006 was rejected by this court on 7 April 2006. The Respondent management was directed to pay backwages to the Petitioner from 21 August 1998, i.e. the date of his termination. By further application filed under Sections 11 and 13 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977, the Petitioner claimed backwages from 21 November 1997 to 4 January 1998 and 6 January 1998 to 16 August 1998, that is to say, prior to the

order of termination for which the Petitioner was not paid wages. That application was rejected by the School Tribunal and the order was challenged by the present Petitioner in a separate writ petition, namely, Writ Petition No.6780/2013. Whilst this court did not find any fault with the impugned order passed by the School Tribunal, this court held that continuity of service would have to be granted to the Petitioner and if not already granted, the management would do so forthwith by correcting the record, if necessary. It is the grievance of the Petitioner that despite these directions, the Respondent management failed to do the needful and give full effect to the order requiring grant of all incidental benefits to the Petitioner. It is not in dispute that during the pendency of this contempt petition, all benefits of service have been duly granted by the Respondent management to the Petitioner save and except his gratuity amount. (The Petitioner has during the pendency of the petition superannuated with effect from 31 May 2017.) The contempt petition now merely pertains to non-payment of the full amount of gratuity. According to the Respondent management, gratuity payable by the Respondent to the Petitioner works out to Rs.3,84,105/-. The Respondent has given all calculations in this behalf by annexing calculation sheets. On the other hand, it is the case of the Petitioner that the gratuity payable to him works out to the ceiling limit of Rs.10 lakhs (the computation coming to Rs.10,28,222/-). The controversy concerning the correct amount of gratuity payable by the Respondent to the Petitioner is not adjudicated by any court. The dispute in relation to the quantum of gratuity cannot be determined in a contempt petition.

2 Accordingly, the contempt petition is dismissed with a clarification that it will be open to the Petitioner to adjudicate the matter of

correct computation of gratuity payable to him before any forum that may be available to the Petitioner.

(S.C. GUPTE, J.)