

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1456 OF 2015

Mrs. Rasika Pathare @ Krutika Mhatre

W/o Rajesh Pathare

.... Petitioner

Vs.

Union of India & Others

.... Respondents

WITH

WRIT PETITION NO.1632 OF 2015

John T. Mathew S/o Late Thomas

Mathew

.... Petitioner

Vs.

Union of India & Others

.... Respondents

Mr. Samji Joseph with Mr. Jins P. Thomas i/by

M/s. Unilex for the Petitioner in both petitions.

Mr. M.S. Bhardwaj with Sairuchita Chowdhary

i/by Ms Manisha Jagtap for Respondent No.1-UoI.

Mr. R.J. Mane, AGP, for the Respondent-State.

Mr. Samarth Moray for Respondent No.5.

**CORAM: S.C. DHARMADHIKARI &
SMT. BHARATI H. DANGRE, JJ.**

DATE : JUNE 04, 2018

P.C:

1. These writ petitions are filed seeking enforcement

and compliance with an order passed by this Court as far back as 6-8-2002 in O.S. Writ Petition No.2211 of 2001.

2. At page 30 of the paper-book is a copy of the order passed on these very petitioners' writ petition of 2001. In that order, the Division Bench of this Court refers to the fact that the writ petition of 2001 itself was a second writ petition of these very petitioners. They earlier filed a writ petition being Writ Petition No.285 of 1998. By a final order of 1-2-1998 that writ petition came to be disposed of. This Court recorded that the Institute in question/Management for short, styled as Agnel Industrial Training Centre, Bandstand, Bandra (West), Mumbai has been implementing the circular issued by the Deputy Director of Vocational Education and Training, Regional Office, Mumbai, dated 7-12-1996. It is on this circular that the petitioners laid their claim for relief in the writ petition filed in 1998 and in the year 2001. The Management stated before this Court that it will abide by this circular but it has qualified this statement by saying that there is a further circular of 7-12-1998 which applies only to such Instructors who have instructed the

students for recognised ITC courses and for which training is imparted at the Agnel Industrial Training Centre. It is, therefore, recorded in the order passed on 1-2-1998 that the computation of 2/3rd salary will be applicable prospectively from the date of the circular and not from the date of employment of the concerned petitioners by this Centre.

3. It is in view of this clear-cut position and which emerged from the record of a writ petition filed in the year 1998 that the subsequent writ petition of 2001 came to be disposed of by this Court. This Court recorded that if any dispute arises in regard to computation of the exact amount payable by the Management to the present petitioners, who were also the petitioners in the earlier petitions and covered by the circular, then they can approach the Deputy Director of Vocational Education and Training who has issued such circular and upon such an approach being made, the Deputy Director shall examine the dispute and decide the same. That is how this Court disposed of the writ petition filed in the year 1998 and did nothing better than this in disposing of the second writ petition

on 6-8-2002. In fact, it observed in the subsequent order that the Deputy Director of Vocational Education and Training should decide the dispute which survived despite the order passed on 1-2-1998 by passing appropriate orders. The parties were directed to appear before him as far as back on 2-9-2002. That representation of the petitioners for the surviving dispute was to be thus disposed of.

4. On that representation, on 24-12-2002, the Deputy Director, Vocational Education and Training, Regional Office, Mumbai issued a communication to the Management pointing out that the petitioners be paid the admissible salaries in terms of the applicable policies of the Government. From 24-12-2002 this Management did not pay the money and beyond reiterating the stand the Directorate of Vocational Education and Training did nothing from 2002 till the year 2014. If some reiteration of this stand is made in 2014 by the Government and that too on another letter/request from the petitioners, we do not see how we can entertain a third writ petition for the same relief and which is filed in the year 2015. To be precise, these writ

petitions have been filed on 1-6-2015. They seek nothing but implementation and enforcement of the order passed by this Court as far as back on 1-2-1998 in Writ Petition No.285 of 1998, based on the petitioners' request in writing and some communication in pursuance thereof to the Directorate of the Management. We do not see how a third writ petition on the same cause of action can be entertained.

5. We repeatedly inquired from the petitioners' Advocate as to why the petitioners took no steps to enforce an order passed in their favour by this Court on two occasions. They did not move the Government seeking enforcement and implementation of the Government's own communication of 24-12-2002 to the Management. We do not see how, beyond writing letters and making representation in writing but not enforcing the writ of this Court as a decree enforceable and executable in law, can the petitioners now request this Court to make a recovery for them and of the dues which were payable from the year 1996. We do not see how such dues and which are sought to be recovered by filing writ petitions in the year 2015

but which amounts were due and payable 19 years and more prior to the filing of these writ petitions can now be directed to be recovered and that too in the year 2018.

6. When this Court does justice, it acts in accordance with law. It cannot override the law and if ordinary and normal remedies cannot be resorted to by lapse of time, we cannot see how a writ of this Court under Article 226 of the Constitution of India can now be issued to override that law or the limitation prescribed by it. Even a decree of this Court is enforceable and alive for the period specified in Article 163 of the Limitation Act, 1963. This writ petitions are, therefore, hopelessly delayed and are dismissed only on the ground of delay and laches.

(SMT. BHARATI H. DANGRE, J.)

(S.C. DHARMADHIKARI, J.)