

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

MISC. CIVIL APPLICATION NO. 594/2017
IN WRIT PETITION NO. 4545/2011.

Sai Krupa Kisan Education, Nagpur.

-VERSUS-

Smt. Ujjawala Arun Deshmukh, Nagpur and others.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

CORAM : B. P. DHARMADHIKARI &
MRS. SWAPNA JOSHI, JJ.

DATE : FEBRUARY 12, 2018.

Heard Shri S.S. Ghate, learned counsel for the applicant, Shri A. Parchure, learned Counsel for non-applicant no.1, Shri A. Chutke, learned A.G.P. for non-applicant nos. 2 and 4 and Shri S.M. Puranik, learned Counsel for non-applicant no.3.

2. Writ Petition No. 4545/2011 was disposed of finally by this Court on 17.03.2017. It was taken up on that date in the backdrop of earlier orders dated 07.01.2015.

3. In paragraph no.15 of the said order, we

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have found the management at fault in stopping the petitioner Smt. Deshmukh, from reporting on duty after 10.09.2011. Therefore, in paragraph no.16, liability to pay her wages from 10.09.2011 upto 01.08.2013 has been saddled on the management.

4. Management has filed present review petition. Contention is, government resolution dated 23.06.2016 in such situation where incumbent has not actually worked envisages only a notional release of benefit. It is further pointed out that Civil Application (W) No. 2747/2012 was moved in the said Writ Petition by petitioner Smt. Deshmukh for interim reinstatement so as to enable her to continue till 01.08.2013. That Civil Application was rejected by a speaking order.

5. Shri Ghatge, learned counsel for the applicant submits that this civil application or order thereupon passed on 20.10.2012 could not be pressed into service on 17.03.2017, when the matter was heard.

6. The government resolution dated 23.06.2016, cannot overwrite the orders of this Court. Stipulation there in enabling the incumbent to

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claim notional benefits therefore, cannot inure to the benefit of present review applicant.

7. In so far as the orders dated 20.10.2012, on Civil Application No. 2747/2012 are concerned, those orders are interlocutory in nature, and therefore, subject to final adjudication. The Division Bench passing that order has taken note of the fact that the earlier Bench did not grant Smt. Deshmukh any interim relief staying her reinstatement at the age of 60 years. It is not in dispute before us that the cause to claim superannuation at 62 years arose lateron and therefore, Civil Application No. 2747/2012 was required to be moved.

8. In any case the order dated 20.10.2012 being interlocutory one, cannot control the final judgment. In final orders, in paragraph nos. 15 and 16, we have given reason for fastening the responsibility upon the management. State Government has paid salary to other person appointed as Principal by the review applicant for said period. Public revenue therefore cannot be asked to shoulder said burden again.

9. We therefore, find the Misc. Civil

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Application erroneous. The same is accordingly
rejected. No costs.

JUDGE

JUDGE

Rgd.