

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

WRIT PETITION NO. 3705 OF 2016

(Ms. Pratibha d/o Shriram Lanjewar (Now. Smt. Pratibha w/o Prashant Dhamane) vs. The Commissioner, Department of Tribal Development & Ors.)

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.
JANUARY 29, 2018.**

Heard Shri S.P. Bhandarkar, learned counsel for the petitioner, Ms. N.P. Mehta, learned AGP for respondent Nos. 1 to 3 and Shri U.J. Deshpande, learned counsel for respondent Nos. 4 & 5, for some time.

2. It is not in dispute that the petitioner presently has been absorbed and working. The grievance in the petition is for back wages for the period from 10.12.2009 to 01.01.2015, from 23.12.2015 to 16.05.2016 and also for some period thereafter.

3. We find the counsel for the petitioner not instructed fully to assist the court in the matter. With the result, counsel for the respondents are also not in a position to assist the Court.

4. The questions which arise are, whether the petitioner was at fault for not joining at the place where she was absorbed/ transferred.

5. The petitioner is not in a position to show any representation after last joining, blaming respondents for inaction on their part. If we accept inaction on the part of respondent Nos. 1, 2 and 3, it is apparent that the petitioner will be required to be paid through public revenue, though she has not worked. The period is little over eight years. Hence, we grant the petitioner liberty to make appropriate representation pointing out the necessary details to sustain her claim for wages during this period. Such representation shall be made to respondent No. 1 within a period of three weeks from today.

6. After receipt of such representation, respondent No. 1 shall inquire into it fully and pass suitable orders about entitlement of the petitioner to wages during this period or any part thereof. If the petitioner is found entitled to any wages, the amount found due and payable shall be deposited in the Bank account of the petitioner in next three months. The acceptance of that amount shall not preclude the petitioner from making grievance about the correctness of the exercise undertaken. Respondent No. 1 shall also inquire into inaction and omission on the part of his subordinates in the matter, which has resulted or which may result in loss to public revenue. Appropriate action in this respect shall also be initiated immediately.

7. Respondent No. 1 shall file his personal affidavit in this respect with the Registry of this Court. If no such personal affidavit is filed by respondent No.1 in next three

months from today, it shall be presumed as contempt of court and the registry shall accordingly list the matter for further consideration.

8. With these directions and observations, we partly allow the present writ petition and dispose it of. However, in the facts and circumstances of the case, there shall be no order as to costs.

JUDGE

JUDGE

*GS.