

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
CONTEMPT PETITION NO. 94 OF 2019 IN
WRIT PETITION NO. 5435 OF 2014

Baby Ekanath Bichkule

Petitioner

Versus

Dr. Pradeep Vyas & others

Respondents

Mr. Ajay Shinde, advocate for the petitioner.

Mr. Shrimant Munde, advocate for respondents no. 2 and 3.

**CORAM : PRASANNA B. VARALE &
AVINASH G. GHAROTE, JJ.**

DATE : 18th September, 2019

PER COURT:

1 Heard learned counsel for the petitioner.

2 The present contempt petition is filed raising grievance of non-compliance of the order of this Court dated 25.01.2018 in Writ Petition No. 5435/2014.

3 While issuing notice by order dated 11.02.2019 in the Contempt Petition, this Court was pleased to refer to the order passed by this Court in the writ petition in detail. Simple notice was issued to respondents no. 2 and 3. In the order dated

15.07.2019, a reference was made to the affidavit-in-reply filed on behalf of respondents no. 2 and 3 through Mr. Gopal Madhavrao Kundlikar, Assistant District Health Officer, Zilla Parishad, Aurangabad. Along with the affidavit-in-reply, copy of the communication dated 26.04.2019 is placed on record. Under the said communication, it was informed that a proposal submitted to the State Government for creation of new posts and regularising services of the petitioner was turned down. A specific statement was also made in the affidavit-in-reply that till the decision of rejection of proposal, the petitioner was paid monthly salary as per the scheme applicable to the petitioner.

4 Learned counsel for the petitioner submits that the petitioner is entitled for revised pay scale. The order dated 15.07.2019 also refers to the submission by the learned counsel for respondents no. 2 and 3 that the revision of salary of petitioner was dependent upon acceptance of proposal by the State Government. The only controversy before this Court is in respect of entitlement of the petitioner till the decision on the proposal dated 26.04.2019 is taken i.e. whether the petitioner would be entitled to receive salary as claimed or the petitioner to whom the earlier emoluments having being paid by the Zilla Parishad, is the

compliance of the order of this Court. The petitioner herself states that she was receiving honorarium for the post of Health Worker or part-time Nurse. On this backdrop, if the order of this Court dated 25.01.2018 is perused, it clearly states that the petitioner shall be continued in employment on the same terms and conditions. Thus, if the services of petitioner were governed by a term accepted by the petitioner on receiving honorarium, this Court, in a contempt petition, cannot expand the scope of the contempt petition only on the submission of learned counsel appearing for the petitioner, that the petitioner was receiving salary and she be paid the amount of salary and not honorarium. Accepting such submission would not only expand the scope of the contempt petition but also would lead to entering an arena of adjudicating right of a party in a contempt petition that too when there is no such admission by the other side that the petitioner was receiving salary. At the cost of repetition, we observe that in the affidavit-in-reply filed on behalf of respondents no. 2 and 3, it is stated that the deponent has continued the services of the petitioner on the same terms and conditions, meaning thereby, the petitioner, who was receiving honorarium, is continued in service and she would receive honorarium as per her entitlement.

5 Considering these facts, we are of the opinion that that
the order of this Court is now duly complied with and nothing
survives in the contempt petition.

6 Accordingly, contempt petition is disposed of.

AVINASH G. GHAROTE
JUDGE

PRASANNA B. VARALE
JUDGE

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