

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CONT. PETITION NO.151 OF 2017
IN WP/803/2016**

**LAXMIBAI UTTAM POTDAR
VERSUS
A L JARAD AND OTHERS**

Mr. A.V.Indrale Patil, Advocate for the petitioner
Mrs. M.A.Deshpande, AGP for the respondent/State.

**CORAM : PRASANNA B. VARALE &
S.M.GAVHANE, JJ.**

DATED : 17.01.2019

P.C. :-

1. Heard the learned counsel for the petitioner.
2. On a grievance that the order of this Court is not complied with the notice was issued on 24.02.2017. On 27.09.2018 it was brought to the notice of this Court by way of an affidavit in reply that the procedural and administrative difficulties are the reasons for delay in compliance. Accordingly, we directed the learned Assistant Government Pleader to file additional affidavit in reply to State the progress in the matter and it was further observed by this Court, the reply must show the positive steps taken by the authorities. Insofar as the first affidavit in reply is concerned the same was filed before this Court on 12.03.2018 alongwith certain annexures. The perusal of order of this Court dated 08.08.2016 show that in paragraph No. 12 in the order the Division Bench directed the authority to consider the medical certificates produced by deceased Uttam to consider the medical certificates and on the

basis of those medical certificates grant whatever leave that was admissible to the deceased Uttam and regularize the period of his absence from 28.10.1991 to 27.03.2008. It was further observed by this Court if the need be, respondent Nos. 2 and 3 may move respondent No.1 for sanction of leave and regularization of the period of absence of the deceased Uttam. Further it was directed that the respondents shall further take necessary steps to get verified the service book of the deceased Uttam from the Pay Verification Unit, at the earliest.

3. On the backdrop of these observations the petition was disposed of by incorporating clauses 2 and 3 crystallizing the directions. Annexure Exh.R-10 to the affidavit in reply dated 12.03.2018 shows that for period 28.10.1991 to 08.06.1994 the leaves entitlements in addition to the extra ordinary medical leave are granted in favour of the petitioner. This communication dated 05.10.2017 further states that the absence of the petitioner for the period 09.06.1994 to 27.03.2008 is treated against as extra ordinary leave and then absence 09.06.1994 to 27.03.2008 and then it is further stated that the period of 09.06.1994 to 27.03.2008 would not be counted for other benefits.

4. In the additional affidavit in reply dated 19.11.2018 in response to our order dated 27.09.2018 Shri. Sanjay Chandrakant Pakhale the Dairy Manager states that in respect of claim of the petitioner A.G. Nagpur had issued a sanction letter dated 19.04.2018. The copy of the sanction letter is also placed on

record. Thereafter stated further that as per the sanction letter of A.G. Nagpur the petitioner Laxmibai Uttam Potdar had received the gratuity amount to the tune of Rs.86,545/- through cheque on dated 22.05.2018 and acknowledgment receipt is also placed on record at Exh.R-2. It is not in dispute that there is some delay cause in compliance of the order of this Court and as stated above in the first affidavit in reply, reason assigned for the delay was of technical and administrative formalities.

5. The learned AGP submitted that this was not an intentional act but due to the formalities the delay caused and undertaken before this Court that hereinafter the authorities would be more careful in compliance of the order of this Court.

6. The learned counsel for the petitioner raised a grievance insofar as the observations in communication dated 05.10.2017, namely, the period from 09.06.1994 to 27.03.2008 would not be considered for the other benefits. It is the submission of the counsel that the approach of the authorities is not in consonance with the service conditions to that effect. Even if there may be some grievance of the petitioner for these observations, consideration of these grievance would be certainly beyond the scope of contempt petition and on this sole ground we refrain ourselves to take into consideration that aspect of the matter and decline to extend the scope of this petition. We are of the opinion that the respondents placed on record the material is

sufficient enough to arrive at a conclusion that the order of this Court dated 08.08.2016 is complied with though belatedly and explanation on undertaking is submitted to this Court. In view of this fact nothing more survives in the petition the petition is accordingly disposed of.

[S.M.GAVHANE,J.]

[PRASANNA B. VARALE,J.]