

IN THE HIGH COURT OF BOMBAY AT GOA***WRIT PETITION NO. 655 OF 2019***

1. Mr. Suresh Salgaokar,
s/o late Narayan Salgaokar,
Aged 50 years, service, Indian National,
r/o H.No.359, Karmurli Vagali, Bardez Goa.
 2. Mr. Placido Castanha,
s/o Mr. Rosario Castanha, aged 36 years,
Service, Indian National, married,
r/o H.No.395, Near PWD Office,
Fatorda Margao Goa.
 3. Mr. Devanand V. Shirodkar,
aged 44 years, service,
Indian National, married,
r/o H.No.17, Jaidev Vaddo,
Machinola-Aldona,
Bardez Goa, 403 508
- ... Petitioners

Versus

1. State of Goa,
Through Chief Secretary,
Secretariat, Porvorim, Bardez Goa.
2. River Navigation Department,
Through the Head of Department,
Captain of Ports, Panaji Goa.
3. Administrative cum Account Officer,
River Navigation Department,
Betim Goa.
4. Mr. Vikram Sinh Rajebhonsle,
Senior Superintendent (W & T),

Marine Workshop,
River Navigation Department,
Betim Goa.

... Respondents

Mr. Vithal Naik, Advocate for the Petitioners.

Mr. D. Pangam, Advocate General with Ms. A. Kamat, Addl. Government Advocate for the Respondents.

**Coram:- M. S. SONAK &
NUTAN D. SARDESSAI, JJ.
Date:- 6th August, 2019**

Oral Judgment (Per M. S. Sonak, J)

Heard Mr. V. Naik, learned counsel for the Petitioners and Mr. D. Pangam, learned Advocate General appearing along with Ms. A. Kamat, learned Addl. Government Advocate for the Respondents.

2. Rule. Rule is made returnable forthwith with the consent and at the request of the learned counsel for the parties.

3. The complaint of the Petitioners is that though they have reported for duties, their salaries for the months of June and July, 2019 have not been paid by the Respondents.

4. Mr. D. Pangam, learned Advocate General appearing for the Respondents submits that the Petitioners have not been reporting for duties since November, 2017. He submits that in any case, the

Respondents will issue a show cause notice to the Petitioners within a period of one week from today and upon receipt of the responses from the Petitioners, the Respondents will dispose of the show cause notice within a period of 15 days thereafter.

5. Mr. Pangam submits that since, the Petitioners, are in receipt of the salaries from November, 2017 till May, 2019 without having actually worked, no further relief should be granted to the Petitioners in this petition.

6. Since, the show cause notice is proposed to be issued to the Petitioners, it will not be appropriate for us to go into the issue as to whether or not the Petitioners have really reported for duties and worked in the Department since November, 2017. We leave that matter open for the appropriate authority of the Respondents to decide.

7. Mr. D. Pangam states that the show cause notice will be issued within one week from today. Mr. V. Naik, learned counsel for the Petitioners states that he has instructions to receive the show cause notice, so that there is no further delay in the matter of service of show cause notice upon the Petitioners. The Petitioners to file their responses to the show cause notice within one week from the date of the receipt of the same. The show cause notice to be disposed of by the competent authority within a period of 15 days from the receipt of the responses

from the Petitioners. Such disposal shall be in accordance with law and on its own merits. The Petitioners to be heard by the authority issuing them a show cause notice. The Petitioners state that they will not in any circumstance seek unnecessary adjournments and report for hearing on the date fixed by the authority. If, the petitioners fail to remain present on the date of hearing, the authority to consider the responses of the Petitioners and dispose of the show cause notice.

8. In so far as the salaries for the months of June and July, 2019 are concerned, in the peculiar facts of the present case, we direct that the same be released in favour of the Petitioners. However, such release, shall be without prejudice to the contentions of the Respondents that no such salaries are in fact payable to the Petitioners because they have not reported for duties. Further, prior to the release of such salary, the Petitioners will have to file an undertaking before this Court stating that they will refund this salary to the Respondents, if ultimately, it is found that the such salary was not due and payable to them. This shall no doubt be without prejudice to the rights of the Petitioners to challenge the decision of the authority. The salary to be released by the Respondents within a period of three weeks from the date of filing an undertaking before this Court. The copy of the undertaking to be furnished to the learned counsel appearing for the Respondents before the same is filed in this Court.

9. Further, we make it clear that mere fact that we have directed the payment of salary of these two months should not be taken as any acceptance of the Petitioners' contentions that they have in fact reported for duties or that they have in fact worked during this period or any period prior to the same. All these matters, will have to be decided by the appropriate authority which is to issue show cause notice to the Petitioners. Accordingly, all contentions of all the parties are left open.

10. Rule is disposed of in the aforesaid terms. There shall be no order as to costs.

11 All concerned to act on the basis of the authenticated copy of this order.

NUTAN D. SARDESSAI, J.

M. S. SONAK, J.

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