

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION*

CONTEMPT PETITION NO. 98 OF 2018

Sopan P. Patil .. Petitioner
Vs
Nehru Shikshan Sanstha, Pune and others .. Respondents

Ms.Priya Shetty i/b Manjiri Parasnis, for the Petitioner.

Mr.M.M.Pabale – Addl. Government Pleader, for Respondent Nos.3 to 5.

***CORAM : PRADEEP NANDRAJOG, C.J. &
N.M.JAMDAR, J.***

Date : 4 July, 2019.

P.C. :

1. The Petitioner was issued a chargesheet and after inquiry was exonerated.

2. The Writ Petition No.3283 of 2013 filed by the Petitioner was disposed of by the order dated 19 January 2016 which reads as under:

'Parties through their counsel.

2. *Learned counsel for the petitioner submits*

that during the pendency of this petition, petitioner has been exonerated of the charges levelled against him. In support of this contention, the petitioner has filed a final inquiry report at Exhibit. "A" along with additional affidavit. The only grievance of the petitioner remains is that even after his exoneration, respondents are not releasing his salary which is due since January, 2013.

3. Having regard to the aforesaid uncontroverted fact that the petitioner has been exonerated of the charges, we dispose of this petition by directing the respondents, more particularly, the Education Officer (Secondary), Pune Zilla Parishad, Pune to take necessary steps for release of the unpaid salary to the petitioner and to issue appropriate directions to the concerned authorities to pay salary to the petitioner every month. The said exercise be completed by the respondent no. 3 within three weeks from the date of receipt of this order.

4. With the aforesaid directions, petition is disposed of.'

3. Regretfully, the order does not give any clue whether pending inquiry the Petitioner was suspended and subsistence allowance was paid to him. The order simply records Petitioner's grievance that inspite of he being exonerated salary was not being released since January, 2013. Direction issued was to the Education Officer (Secondary), Pune Zilla Parishad to take necessary steps towards release of unpaid salary to the Petitioner.

4. Contempt alleged is noncompliance of the directions issued by the order dated 19 January 2017. Even in the Contempt Petition it has not been disclosed whether the Petitioner was under suspension during inquiry.

5. Now, if a Government servants, upon being chargesheeted, is placed under suspension then at the conclusion of the inquiry, upon being exonerated, the competent Authority has to pass an order with respect to the period the charged officer remained suspended. It may happen that the charge was grave but on account of witnesses not appearing it becomes the compulsion of Enquiry officer to hold that the charge was not established. Merely on being exonerated the suspended employer would not be entitled to full salary. The gravity of the charge has to be considered for release of full salary during the period the delinquent remained suspended pending inquiry.

6. We dispose of the Contempt Petition issuing a direction to the Education Officer (Secondary) Pune Zilla Parishad to pass appropriate orders with respect to the period the Petitioner remained under suspension. If it is a case where the Petitioner was not suspended or even subsistence allowance was not paid then full salary would be released. If the Petitioner was suspended and subsistence allowance was paid, in light of the Petitioner being exonerated an order would be passed as to in what manner said

period has to be accounted for. Necessary order shall be passed within 12 weeks from today. The order shall be complied with.

N.M.JAMDAR, J.

CHIEF JUSTICE