

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****CONTEMPT PETITION NO. 134 OF 2012**

Pradnya Ashirwad Lokhande

.....Petitioner.

Vs.

Hemant Vissanji & Ors.

.....Respondents.

Mr. N.V. Bandiwadekar i/by Mr. Dilip Bodake for the Petitioner.

Mr. Prashant Chavan a/w Mr. Mukund Madekar and Ms. Reshma Nathani i/by Madekar & Co. for the Respondent Nos. 1 and 2.

Smt. M.S. Bane, AGP for the Respondent Nos. 3 and 4-State.

CORAM : A. S. GADKARI, J.**DATE : 16th SEPTEMBER, 2019.****P.C.:-**

By the present Petition, the Petitioner has alleged that, the Judgment and Order dated 14th December, 2011 passed by the learned Presiding Officer, Mumbai University and College Tribunal, Mumbai (for short, "*the College Tribunal*") in Appeal No. 7 of 2011 has not been complied with by the Respondent Nos. 1, 2 and 3 and rather it is a willful disobedience of the said Order. The record indicates that, the said Order dated 14th December, 2011 has been upheld by the Hon'ble Supreme Court.

2 At the outset, Mr. Chavan, the learned counsel for the Respondent Nos. 1 and 2 submitted that, as per his instructions, the Respondent No. 1 expired on 16th August, 2019.

3 By the said Judgment and Order dated 14th December, 2011, the College Tribunal in Clause Nos. 1 and 2, therein has issued the following directions:-

“1) The impugned order of termination letter dated 10th January, 2011 of discontinuation, is hereby quashed and set aside. Appellant is reinstated to the post of full time lecturer in Chemistry with continuity of service and full back wages and shall be entitled for all admissible and recoverable dues.

2) In the event of absorption as surplus for no workload or otherwise as per the directions of Respondent No.4, Joint Director of Higher Education, Appellant shall be entitled for required relieving letter, salary certificate and LPC and supporting documents from Respondent Nos. 1 & 2 and they shall duty bound to deliver the same which are required and necessary for absorption, elsewhere.”

4 Mr. Chavan, the learned counsel for the contesting Respondents submitted that, the Respondent No.2 has filed a detailed affidavit dated 17th March, 2017 placing on record the fact that, the said Respondents in fact have forwarded all the documents mentioned in Clause No.2 of the said Order and the documents pertaining to back wages for its consideration to the Joint Director of Higher Education i.e. Respondent No.3 herein. He

submitted that, the Petitioner herein has been relieved from service on 21st August, 2013. He on instructions, submitted that as far as Clause No. 1 of the said Order is concerned, the same has been complied with by the Respondent Nos. 1 and 2.

He further, on instructions, submitted that, as far as Clause No.2 of the said Order is concerned, the Respondents have handed over all the said documents to the Petitioner except her Service Book. He submitted that, the Respondents on various occasions expressed their willingness to hand over the said Service Book to the Petitioner, however, the Petitioner did not accept it and therefore, the said clause could not be complied with till today. He submitted that, it therefore, does not amount to violation of the directions issued by this Court. He further submitted that, the Clause No.2 of the said Order has been complied with by his clients in its proper spirit and as of today nothing survives in the Contempt Petition.

5 As the contesting Respondents have complied with the directions issued by the Tribunal and the said Respondents have further expressed their willingness from time to time to comply with the rest of the directions, I am not inclined to Admit the present Petition.

6 Mr. Bandiwadekar, the learned counsel for the Petitioner submitted that, during the period of termination, the Petitioner gave birth to third child. Her legal right pertaining to the maternity leave of 180 days has been treated as absence from service by the Respondent Nos. 1 and 2

and accordingly an entry has been effected in her Service Book, which is detrimental to her interest in future and therefore, the Petitioner has not collected her service book from the Respondent Nos. 1 and 2. He further submitted that, there is also dispute pertaining to the salary, which according to the Petitioner, she is entitled for i.e. back-wages which the Respondents are not paying to her. He submitted that, there is also a dispute in respect of relieving date from service and joining date at next establishment. That, these are the main disputed questions which are to be taken into consideration.

Mr. Bandiwadekar, the learned counsel further submitted that, though the Respondent Nos. 1 and 2 have issued relieving letter dated 21st August, 2013, it ought to have been issued from 11th April, 2014. He submitted that, the Petitioner joined and absorbed in service in another college i.e. Bhavans College, Andheri (West) on 12th April, 2014 and therefore, in her service book, there is a gap of period from 21st August, 2013 to 11th April, 2014.

7 The learned AGP submitted that, the disputed questions mentioned above are pertaining to the jurisdiction of Joint Director of Higher Education, Mumbai Region i.e. Respondent No.3 and if necessary directions are issued to the Respondent No.3 he/she will certainly look into the matter.

In view of the statement made by the learned AGP and the fact

that the disputed questions raised by the Petitioner are pertaining to the jurisdiction of Respondent No. 3, the Petitioner is granted liberty to approach the said Authority i.e. Respondent No.3 for redressal of her grievance pertaining to the maternity leave of 180 days, disputed back wages, entry in her service book or change of date of relieving letter issued by the Respondent Nos. 1 and 2.

If the Petitioner approaches the Respondent No.3 within a period of six weeks from today, for redressal of her grievance, the Respondent No.3 to consider it as per the provisions of law and if necessary, may hear the contesting Respondents herein before passing appropriate Orders in that behalf.

It is made clear that, the contentions of both the parties herein pertaining to the aforesaid points i.e. maternity leave of 180 days, disputed back-wages and the entry in respect of the gap of issuing relieving letter and joining new posting are kept open.

8 Contempt Petition is accordingly disposed off, in the aforesaid terms.

(A.S. GADKARI, J.)