

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CIVIL APPLICATION (CAW) NO.2378 OF 2019

IN

WRIT PETITION NO.2907 OF 2006(D)

Sandhya W/o. Anil Deshmukh

Vs.

The State of Maharashtra Through Divisional Commissioner, Amravati
Division, Amravati.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A. S. Dhore, Advocate for applicant.

Shri A. V. Palshikar, Assistant Government Pleader for
respondent no.1.

Shri Shrikant Saoji, Advocate for respondent no.2.

CORAM : A. S. CHANDURKAR, J.

DATE : SEPTEMBER 30, 2019.

The original petitioner seeks modification of the judgment dated 19.07.2019. In the application it is stated that though the direction for reinstatement has been granted, continuity of service has not been referred to while granting relief to the petitioner. It is further stated that the direction issued as regards deducting the amount of suspension allowance already received by the petitioner is not warranted in view of the fact that the petitioner was paid that amount for no fault on her part. Reliance is placed on the decision in ***State of Punjab Vs. Rafiq Masih, 2014 (8) SCC 883***, in that regard.

2. On 23.09.2019 time was granted to the respondent no.2 by way of last chance. Today request is again being made for adjournment on behalf of the learned counsel for the respondent no.2. That request is denied.

3. Heard considering the fact that the services of the petitioner have been directed to the reinstated from 25.04.2018 in view of the fact that on that date the appeal filed by her was allowed and she was acquitted, it follows that such reinstatement is alongwith the relief of continuity of service.

4. The prayer made for not deducting the amounts already received by the petitioner cannot be accepted. The petitioner has been paid suspension allowance from 22.09.2006 though she was not entitled for the same. She willingly accepted those amounts. Hence, the amount already received by her has been directed to be adjusted towards amount of back-wages. The direction is for adjusting the amounts already received by her and hence the ratio of the decision in **Rafiq Masih** (supra) does not apply to the present case. Hence, no modification in that

regard is warranted.

5. Accordingly, in the judgment dated 19.07.2019 is modified by observing that the direction as regards continuity in service alongwith reinstatement stands granted. Civil Application is allowed in aforesaid terms.

JUDGE

Sarkate