

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

CIVIL APPLICATION (CAN) NO.98 OF 2019

IN

CONTEMPT PETITION NO. 189 OF 2019

IN

WRIT PETITION NO.4651 OF 2009

(PRAKASH LAXMAN SHENDE...VS.. SHRI V.R.MILMILE & OTH.)

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

Court's or Judge's orders

Shri D.C.R.Mishra, Advocate for Petitioner/Applicant.

CORAM : Z.A.HAQ, J.

DATED : NOVEMBER 20, 2019.

Heard.

By this application, the petitioner has prayed that the order passed on 24th July 2019 be recalled and the Contempt Petition No. 189 of 2019 filed by the petitioner be restored.

By the order dated 24th July 2019, the contempt petition filed by the petitioner is dismissed observing that the grievance made by the petitioner cannot be examined in the contempt petition. It is submitted that the Advocate representing the petitioner could not remain present on 16th July 2019 and 24th July 2019 because of the ill-health. The documents to support the claim that the learned Advocate was not keeping well at the relevant time are also not placed on record.

The explanation given for absence of the learned Advocate for the petitioner is accepted. The order dated 24th July 2019 shows that the contempt petition was dismissed

after examining whether the grievance of the petitioner made in the contempt petition can be examined exercising jurisdiction under the Contempt of Courts Act, 1971. As the learned Advocate could not remain present on that date, he is heard to ascertain whether there is any apparent error which necessitates recall of the order dated 24th July 2019.

The submission on behalf of the petitioner is that the petitioner was not given benefit of permanency as per his entitlement and therefore, he had approached the Industrial Court by filing complaint which came to be allowed by the Industrial Court and the respondents were directed to confer permanency on the petitioner. However, the order passed by the Industrial Court was challenged by the employer in Writ Petition No.4651 of 2009 which came to be allowed. According to the petitioner, the effect of the judgment given Court in Writ Petition No. 4651 of 2009 was that the petitioner was not entitled for permanency. However, taking undue advantage of the judgment passed by this Court in Writ Petition No.4651 of 2009, the respondents issued communications dated 21st January 2019 and 6th February 2019 illegally terminating the services of the petitioner. According to the petitioner, the respondents could not have relied on the judgment given by this Court in Writ Petition No.4651 of 2009 to terminate the services of the petitioner.

Even if the above submission, made on behalf of the petitioner is accepted, in my view legality of the termination order cannot be examined in the contempt petition. Hence, the order passed on 24th July 2019 is not required to be recalled.

The Civil Application is **dismissed** accordingly.

It is clarified that the petitioner will be at liberty to avail appropriate remedy as per law to seek redressal of his grievance regarding illegal termination of his services.

JUDGE

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