

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

CONTEMPT PETITION NO. 02 OF 2017
IN
WRIT PETITION NO. 3089 OF 2004 (D)

Dr. Mrs. Girija Maheshwari

VS.

Dr. Sajid Anwar and others

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

Court's or Judge's

Shri. R. K. Maheshwari, counsel for petitioner.
Shri. A. C. Dharmadikari, counsel for respondent No.1 & 2

CORAM : MANISH PITALE J

DATED : 06.11.2019

By this contempt petition the petitioner claims that respondents have committed contempt of order passed by this Court on 09.07.2015, whereby Writ Petition filed by the management, represented here by the Administrator / alleged contemnor, was dismissed and the judgment and order passed by the University and College Tribunal on 16.06.2004 stood confirmed. The operative portion of the judgment and order of the Tribunal reads as follows :-

“The appeal is allowed .

The impugned order of termination dated 12.06.2002 and its clarification dated

15.06.2002 is quashed and set aside.

The respondents No.1 and 2 are directed to reinstate the appellant forthwith with continuity of service and with back wages.

The respondents No.1 and 2 are directed to pay the back wages to appellant within a period of two months from today.

Parties to bear their own costs."

2. While confirming the the said order of the Tribunal, this Court passed following order :-

(1) The judgment of the University and College Tribunal dated 16.06.2004 is confirmed.

(2) The amount of back-wages as directed by the College Tribunal shall be paid to the respondent No.1 with 6% interest per annum. The aforesaid amount shall be paid to the respondent No.1 within a period of four months from today.

(3) The respondent No.1 is permitted to withdraw the amount of Rs.60,000/- with interest accrued thereon that was deposited by the petitioners pursuant to order dated 14.08.2006.

(4) Rule stands disposed of in aforesaid terms. No costs.

3. Thereafter, the respondents calculated the amount of back-wages payable to the petitioner. It is undisputed that back-wages were to be paid from 17.06.2002 to 24.09.2004. The respondents calculated the back-wages and by applying interest @6% per annum, as directed by this Court, paid an amount of Rs.4,48,197/- to the petitioner. There is no dispute about the fact that the said amount was paid within time period prescribed by this Court. But, the petitioner claims that payment of the aforesaid amount did not amount to compliance with the order passed by this Court, because the back-wages as payable to the petitioner would be back-wages as payable in law along with 6% interest per annum. According to the petitioner, the amount of back-wages payable for the entire period between 17.06.2002 to 24.09.2004 ought to have been paid on the revised pay scale and not on the pay scale which was existing earlier. According to the petitioner, if calculations were made on the basis of the revised pay scale, the quantum of back-wages would increase and interest @6% per annum would be payable on such properly calculated back-wages till such amount was actually paid by the respondents. The petitioner claims that by making payment of amount, which was far less than the amount actually payable towards back-wages, the respondents have committed contempt of the order of this Court.

4. In response to the notice issued by this Court, the respondents have placed on record certain facts. It is submitted on behalf of the respondents that the revised pay scale was made applicable to the employees of the concerned institution from February 2004 onwards and prior to that the employees were being paid salary in terms of the unrevised pay scale. It is an admitted position that the earlier pay scale started with basic pay of Rs.2200/- and the revised pay scale started with the basic pay of Rs.8000/-. It is stated in the reply filed on behalf of the respondents that salaries were paid to all the employees of the institution as per the 4th pay commission and that was scale of salary paid to the petitioner from the initial date of appointment on 05.08.1999. It was pointed out that appropriate increments were also given to the petitioner and that during the relevant period with which we are concerned, the employees of the institution were paid salary upto January 2004 on the unrevised pay scale and revised pay scale was made applicable from February 2004. It is on this basis that the respondents calculated the quantum of back-wages payable to the petitioner. A chart has been placed on record by the respondents giving the details of calculation of back-wages for the period from 17.06.2002 to 24.09.2004. Perusal of the same would show that between June 2002 to January 2004 the petitioner

has been paid back-wages on the unrevised pay scale and from February 2004 to September 2004, back-wages have been paid on the revised pay scale, which at that point in time shows basic pay of Rs.9100/-. It is also pointed out that this was the manner in which payment of salary was made to all the other employees of the institution.

5. Apart from this, The respondents have invited attention of this Court to a communication addressed to the Joint Director Technical Education dated 29.11.2006, wherein it was specifically stated that salary and increments were being calculated and paid to the petitioner in pursuance of order passed by this Court, further specifically stating that the pay scale of the petitioner was fixed at Rs.2200-75-2800-100-4000 and that fixation of the revised pay scale w.e.f. 01.02.2004 was being made @ Rs.8000-275-13500. The said document shows that the Joint Director of Technical Education approved the aforesaid steps taken by the respondent management.

6. In the face of such material and documents placed on record, it appears that the respondents have calculated the quantum of back-wages as demonstrated in the chart placed before this Court on the basis of unrevised pay scale till January 2004 and on the basis of revised

pay scale from February 2004 onwards. This appears to have been made in terms of communication addressed to the concerned authority, which at that point of time had approved of the same. The petitioner is not able to dispute the fact that all the other employees of the institution were paid salaries as per the unrevised pay scale till January 2004 and on the basis of the revised pay scale from February 2004.

7. In these circumstances, it would be difficult to accept the submission made on behalf of the petitioner that back-wages ought to have been calculated on the basis of revised pay scale for the entire period for which the back-wages were payable and that by not doing so, the respondent had committed contempt of the order of this Court.

8. The question as to whether particular Government Resolution and other directions issued by the State from time to time would be applicable to the respondent institution, which is admittedly a minority institution, is a question going beyond the scope of jurisdiction sought to be invoked in the present contempt petition.

9. This Court is of the opinion that the respondents have shown substantial compliance with the directions issued by this Court.

Therefore, it is found that there is no substance in the present contempt petition and it is accordingly dismissed.

10. It is made clear that if the petitioner intends to agitate any dispute as regards entitlement to and applicability of specific pay scale, she may do so by instituting appropriate proceedings, which shall be decided in accordance with law.

JUDGE

KOLHE