

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

CIVIL APPLICATION (W) No.2970 OF 2019

IN

WRIT PETITION NO. 22 OF 2015

Jairam s/o Mahadeo Shende

VS.

Zilla Parishad, Bhandara and others

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

Court's or Judge's orders

Shri. A. H. Jamal, counsel for the petitioner.
Smt. M. P. Munshi, counsel for respondents No.1 & 2.

CORAM : MANISH PITALE J

DATED : 04/12/2019

This is an application for speaking to minutes to the Court. The applicant (original petitioner) has moved this application, because the judgment and order dated 22/11/2018, is being interpreted in a peculiar manner by the respondent No.1, leading to a situation where the applicant is constrained to approach this Court.

2. On 22/11/2018 this court allowed Writ Petition No.22/2015, thereby setting aside the order passed by the Labour Court. It was held in the said writ petition as follows :-

“19. In view of the above, the writ petition is allowed. The award passed by the Labour Court is set aside and the

reference is allowed in its entirety in favour of the petitioner by directing that the petitioner shall be entitled to reinstatement with continuity of service and full back wages.”

3. The respondent No.1 has filed Special Leave Petition before the Hon’ble Supreme Court, wherein notice has been issued restricted to the question of payment of back wages to the applicant and rest of the order has been specifically confirmed by the Hon’ble Supreme Court. The order passed by the Hon’ble Supreme Court reads as follows :-

“ Delay condoned.

We do not find any ground to interfere in the impugned judgment.

However, issue notice only with regard to back wages. Rest of the order is confirmed.

The petitioner is directed to reinstate the respondent-workman.”

4. The respondent No.1 herein is seeking to interpret the judgment and order dated 22/11/2018 passed by this Court and the above quoted order of the Hon’ble Supreme Court to me that the applicant is to be reinstated as a “**workman**”. This has necessitated filing application on behalf of the applicant. It is pointed out that the entire grievance raised on behalf of the applicant before the Labour Court and stated in the writ petition was concerning entitlement to the post of Peon. The pleadings before the Labour Court and the nature of

evidence led on behalf of the applicant, as well as the prayer clause in the writ petition make this amply clear.

The prayer clause of the writ petition reads as follows :-

“A) Issue the Writ of Certiorari or appropriate writ order or direction to the respondents to quash the part of award directing the respondent to pay Rs.1,00,000/- in lieu of reinstatement and back wages.

B) Direct the respondents to reinstate the petitioner in the employment of respondents to the post of Peon with continuity of service, full back wages and all consequential benefits as per the Schedule of Reference.

C) Grant such other relief as just and proper in the facts and circumstances of the case including the costs of this proceeding.”

5. In view of above, it becomes clear that when writ petition of the applicant was allowed and the reference was allowed in its entirety by this Court, while setting aside the judgment and order of the Labour Court, there was no cause for any confusion in the present matter. Merely because the word “**workman**” has been used in the above quoted order of the Hon’ble Supreme Court, the respondent No.1 cannot be said to be entitled to take a stand that reinstatement of the applicant has to be on any post other than the post of Peon. It is because of the approach adopted by the respondent No.1 that the present application had been filed for seeking clarification.

6. This Court is of the opinion that although a perusal of the record would not require any clarification

in the present matter, but considering the approach adopted by the respondent No.1, it is clarified that when the writ petition filed by the applicant stood allowed and the order has been confirmed by the Hon'ble Supreme Court, barring the question of entitlement of back wages of the applicant, the reinstatement was to be in the post of Peon.

7. Application is disposed of in above terms.

JUDGE

KOLHE/P.A.