

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 7743 OF 2017
IN
CONTEMPT PETITION NO. 277 OF 2015
IN
WRIT PETITION NO. 7733 OF 2011

Dr. Gorle Raghavdas

...Applicant

versus

Bhusawal Arts, Science and
P. O. Nahata Commerce College
Bhusawal and others

...Respondents

.....
Mr. Kalyan Patil h/f Mr. S.R. Barlinge, advocate for the applicant
Mr. A.B. Chate, A.G.P. for respondent No. 6
.....

**CORAM : V. K. JADHAV AND
S. M. GAVHANE, JJ.
DATED : 6th FEBRUARY, 2020**

ORAL ORDER (PER: V. K. JADHAV, J.):

1. This civil application has been filed to recall the order dated 12.07.2016 passed by the Division Bench of this Court (Coram: S.S. Shinde, and V.K.. Jadhav, JJ.) in contempt petition No. 277 of 2015. The said contempt petition alleged disobedience of the judgment and order dated 25.11.2014 passed by the Division Bench of this Court in writ petition No. 7733 of 2011. So far as the operative part of the order in the aforesaid writ petition is concerned, clause (ii) is relevant for the purpose of deciding this civil application. The same reads as under:-

“i]

ii] Needless to state that the petitioner will be entitled for all the benefits. The petitioner shall satisfy compliance of Clause 3-C of the Government Resolution dated 22.11.1993. The Respondents, on satisfaction of the same, will accord all monetary benefits so also pensionary benefits as the petitioner would be entitled.

iii]

2. It is the specific case of the applicant in the said contempt petition that respondent No.4 has not complied with clause (ii) of the operative part of the order in as much as, no provident fund account number is given to the petitioner so as to perform the part of the petitioner to deposit the contribution towards the provident fund. According to the applicant, while pursuing the said contempt petition, clause (ii) of the order as mentioned above in the writ petition only implies the petitioner to satisfy clause 3 (c) of the Government Resolution dated 22.11.1993 and the said clause does not relate back the clause 3 (a) of the said Government Resolution.

3. It is the case of respondent No.4 that in terms of clause 3 of the Government Resolution dated 22.11.1993 in case the employee retires from the college, which is fully or partially aided at the time of his retirement, then only clause 3 (c) of the said Government Resolution can be invoked and pensionary benefits can be extended

to the employee.

4. In para 6 while disposing of the contempt petition, the Division Bench of this Court (Coram: S.S. Shinde and V.K. Jadhav, JJ.) observed that since respondent No.8 college is on permanent no grant basis, the petitioner is not satisfying the condition 3 (a) of Government Resolution dated 22.11.1993 and as such, the services from 23.1.1991 to 22.1.2007 cannot be treated as qualifying service for pension purpose. Thus, the contempt petition came to be disposed of with observation that there is no willful disobedience on the part of respondent No.4 so far as the clause (ii) of the operative part of the order passed in the writ petition is concerned.

5. Learned counsel for the applicant submits that the statement made by learned A.G.P. on behalf of respondent No.4 in the contempt petition was totally incorrect. Learned counsel submits that the applicant is in service of respondent No.1 college which is 100% aided. He would retire from the said college and therefore, he is entitled for the benefit of pension as per the Government Resolution dated 22.11.1993. Learned counsel submits that the applicant has already suffered in his life. He is blind person. He could not immediately file civil application for modification of the order as he was sick and advised rest. Therefore, the delay in filing civil application may be condoned in the interest of justice.

6. We do not find any substance in this civil application. The Government Resolution dated 22.11.1993 provides for continuation of service rendered by the employee on all unaided colleges for the purpose of granting pension on fulfilling clauses (a) and (b) of condition No.3 of the said Government Resolution, which read as under:-

“a] If the services of unaided institution is to be considered for pensionary benefits then the said unaided institution shall be covered fully aided on the date of retirement of the concerned employee.

b) The concerned unaided institution shall be certified/ approved by the Education department and competent authorities of the University concerned.”

7. Thus, before satisfying clause 3(c) of the Government Resolution dated 22.11.1993, the applicant ought to have satisfied clauses (a) and (b) of the said Government Resolution, as detailed above. Admittedly, respondent No.8 college where the applicant has rendered the services for specific period and it is to be considered for pensionary benefits, then the said respondent No.8 College shall be covered fully aided on the date of retirement of the applicant. Even though the applicant is still in service with respondent No.1, however, respondent No.8 college is permanently on no grant basis and as such, the services from 23.01.1991 to 22.01.2007 of the applicant in respondent No.8 college cannot be treated as qualifying services for

pension purpose. The contempt petition came to be disposed of with these observations and there is no reason to recall the said order. Hence, the following order:-

O R D E R

Civil application is hereby rejected.

(S. M. GAVHANE, J.)

(V. K. JADHAV, J.)

rlj/