

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION (St.) NO.94440 OF 2020
IN
WRIT PETITION NO.12562 OF 2019
WITH
WRIT PETITION NO. 12562 OF 2019

Smt. Sujata Janardhan Kamble	.. Applicant
in the matter between	
The District Collector of Mumbai City	.. Petitioner
vs.	
Smt. Sujata Janardhan Kamble	.. Respondent

Mr. Ashok Tajane for the applicant/respondent.
Mr. M.M. Pabale, AGP for State.

CORAM : DIPANKAR DATTA CJ &
G.S.KULKARNI, J.

DATED : NOVEMBER 27, 2020.

P.C. :

1. The Maharashtra Administrative Tribunal, Mumbai by the order dated July 11, 2019, impugned in this writ petition, allowed the original application presented before it by the applicant/respondent. The order of termination passed against the respondent was set aside and it was held that she is entitled to be reinstated in service with 50% back wages.

2. The said order of the Tribunal having been challenged in this Writ Petition by the Collector/employer, Rule was issued on July 6, 2020 and the direction for payment of 50% back wages was stayed.

3. During the pendency of this writ petition, the petitioner-employer has reinstated the applicant/respondent in service by letter dated September 17, 2020, whereupon she resumed duty on September 28, 2020. By filing Interim Application (St.) No. 94440 of 2020, the applicant/respondent has averred that despite her reinstatement, she has not been paid current salary. She also makes a prayer for release of back-wages in terms of the impugned order of the Tribunal.

4. We have read the affidavit dated November 23, 2020 of the Tahsildar, Organization and Method Officer, Collector Office, Mumbai city. From the affidavit, it is revealed that the office of the Collector intends to implement the order of this Court and requests for time till instructions/directions to this effect are received from the appropriate department of the Government, before whom a proposal is said to be pending.

5. Learned Advocates for the parties have been heard on the merits of the writ petition, which is treated to be on the day's board. We

have not found any infirmity in the impugned order of the Tribunal warranting interference. The applicant/respondent was allowed to work for a little less than three decades as an employee of the State, despite the fact that she did not possess a typing qualification, i.e., typing in Marathi. However, sight cannot be lost of the fact that if indeed the applicant/respondent was lacking in qualification, the petitioner-employer continued to retain her in service for all of 27 years without demur. If it were perceived that the applicant/respondent was ineligible for service, it was the duty of the petitioner-employer not to appoint her at the first instance and leave her to search for greener pastures elsewhere with whatever qualification she possessed. Having employed the applicant/respondent for so long and having extracted service from her, the action of the petitioner-employer to terminate her service on the specious ground that she was not eligible for initial appointment, appears to us to be harsh and disproportionate. We, therefore, do not see any reason to interfere.

6. However, having regard to the fact that the proposal for reimbursement of arrears of salary as well as current salary to be paid to the applicant/respondent is pending before the Government and also that

today is the last effective date of service of the applicant/respondent in view of her attaining superannuation on Monday next which is a public holiday, we discharge the rule and dispose of the writ petition together with the interim application with a direction to the petitioner-employer to release whatsoever amount is due and payable to the applicant/respondent in terms of the impugned order of the Tribunal by January 31, 2021 positively.

7. We hope and trust that the petitioner-employer shall also take appropriate steps to release the retiral benefits in favour of the applicant/respondent at an early date, without driving her to Court to obtain the same.

8. There shall be no order for costs.

9. This order will be digitally signed by the Private Secretary of this Court. All concerned will act on production by fax or e-mail of a digitally signed copy of this order.

G.S.KULKARNI, J.

CHIEF JUSTICE