

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

WRIT PETITION NO.45/2020

Sanjay Naktu Lengure
Vs.

The State of Maharashtra through its Secretary, Department of School Education and Sports
Mantralaya, Mumbai-32 and three others.

*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

Court's or Judge's Orders

Shri B.G.Kulkarni, Advocate, for petitioner.
Shri S.Y.Deopujari, Government Pleader for respondent nos.1 & 2.

CORAM : R.K.DESHPANDE and
A.S.CHANDURKAR, JJ.

DATE : 14.01.2020

In appeal bearing No. STC/11/2013 filed under Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 the School Tribunal at Chandrapur allowed the appeal by order dated 30.01.2015. The operative part of the order is reproduced as under :

“(i) *The appeal is hereby partly allowed.*

(ii) *The termination order dated 14.06.2011 issued by respondent No.1 against the appellant is hereby set-aside.*

(iii) *The respondents No.1 to 3 are hereby directed to reinstate the appellant on his post with continuity in service within one month from today.*

(iv) *The respondents No.1 and 2 are hereby directed to pay 50% back wages to the appellant from the date of his termination till the date of his reinstatement.*

(v) *Pronounced in open Court. “*

Thereafter in Contempt Petition No.156/2016 filed by the petitioner compromise was entered into between the petitioner and respondent nos. 1 and 2. Clauses B and C of the settlement being relevant are reproduced as under :

(B) That, in consideration of the Petitioner being reinstated on his Post with continuity in service, the Petitioner gives up his claim against Respondent Nos.1 & 2 herein, with regard to the Petitioner's entitlement to 50% Back Wages from the date of his termination till the date of his reinstatement.

(C) The Petitioner and the Respondent Nos. 1 & 2 hereby agree, aver and declare that the Respondent Nos. 1 & 2 would submit Bill with the Education Department/Education Officer, claiming the 50% Back Wages to the Department, for being paid to the Petitioner, in case the Department sanctions and pays the 50% Back Wages, the petitioner would be entitled to receive the entire amount as sanctioned by the Education Department. However, if the Bills submitted by the Respondents for Petitioner towards the claim regarding Back Wages are rejected by the Education Department, then, in such circumstances, the Petitioner will not have any claim against the Respondent Nos. 1 & 2 and would not claim any amount from the Respondent Nos.1 & 2 and the claim in that regard, would stand given-up, by the Petitioner, against the present Respondents.

In terms of Clause (iv) of the order dated 30.01.2015 of the School Tribunal, it was the liability of the respondent nos. 1 and 2 namely Management to pay 50% back-wages to the present petitioner from the date of his termination till the date of his reinstatement. In terms of Clause (B) of the settlement, reproduced above, the petitioner has given up his claim against the respondents-Management.

In view of this event, it is not permissible, in our view, for the petitioner to make further claim for release of salary against the respondent no.2-Deputy Director of Education. Once the claim against the respondent-Management is waived, it stands waived against respondent no.2 - Deputy Director of Education also.

The writ petition is dismissed with no orders as to costs. The petitioner is at liberty to prosecute further for arrears of salary before the date of termination of service till the date of termination of his services before appropriate forum as is permissible in law. All questions are left open.

JUDGE

JUDGE

Andurkar..