

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

CONTEMPT PETITION NO.134/2021 IN
WRIT PETITION NO. 6280/2016(D)

Mrs. Rita Naresh Wadetwar @ Ku.Rita Gunwant Pawar
Vs.

Om Prakash Gupta, the Principal Secretary, Higher and Technical Education Deptt.
M.S., Mantralaya, Mumbai and others.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri B. G.Kulkarni, Advocate for petitioner.

CORAM :- A.S.CHANDURKAR AND PUSHPA V. GANEDIWALA, JJ.
DATED :- JUNE 16, 2021.

The grievance of the petitioner is that the observations and directions issued in Writ Petition No.6280/2016 have not been taken into account by the respondent no.3 herein while deciding the entitlement of the petitioner for benefits under the Career Advancement Scheme. By the judgment dated 08.07.2019 in Writ Petition No.6280/2016 the respondent nos. 3 and 4 therein were directed to process the claim of the petitioner for benefits under the Career Advancement Scheme in accordance with the Government Resolution dated 06.02.2006 and to take a decision in accordance with the law within a period of three months.

Shri B.G.Kulkarni, learned counsel for the petitioner invites our attention to the observations in paragraph 2 of the aforesaid judgment and submits that since this Court had observed that the Government Resolution dated 06.02.2006 was also applicable to non-aided institutions/colleges, the claim of the petitioner ought to have been favourably considered. He however submits that on 03.12.2019 the respondent no.3 has taken a decision refusing to give benefit of the Career Advancement

Scheme to the petitioner. This according to the learned counsel is by deliberately ignoring the observations in paragraph 2 thus amounting to wilful disobedience of the order passed in Writ Petition No.6280/2016. According to him, since the respondent no.3 has failed to correctly apply the Government Resolution to the case of the petitioner, such action is contemptuous.

While disposing of Writ Petition No.6280/2016 this Court in paragraph 4 has directed as under :

“4. In view of above, this petition is partly allowed. The respondent nos. 3 and 4 are directed to process the claim of the petitioner in accordance with the Government Resolution dated 06.02.2006 and take a decision in accordance with law, within a period of three months from today.”

Pursuant thereto on 03.12.2019 after considering the case of the petitioner, the respondent no.3 has passed an order. It has been noted that from 21.06.2000 to 04.10.2013 the petitioner discharged duties as Lecturer at a college that did not fall within the purview of the Higher Education Department. Thereafter from 05.10.2013 she was working as Assistant Professor in Pharmacy in a College that came under the purview of the Department of Technical Education. On that basis it has been stated that the service of the petitioner from 2001 to 2013 was rendered in permanently non-aided institutions that were under the purview of the Department of Technical Education (AICTE). Hence, as per Government Resolution dated 06.02.2006 grant of benefit under the Career Advancement Scheme did not come within the purview of the Joint Director, Higher Education, Nagpur.

We find that the direction in the writ petition was to consider the claim of the petitioner for grant of benefit under the Career Advancement Scheme in accordance with Government Resolution dated 06.02.2006 and take a decision in accordance with law. The observations in paragraph 2 relied upon by the learned counsel for the petitioner are with regard to applicability of Government Resolution dated 06.02.2006 to non-aided institutions/colleges. In the order passed by the respondent no.3 on 03.12.2019 one of the grounds for refusing to grant benefit to the petitioner is on account of the service rendered by the petitioner in institutions falling under the purview of the Department of Technical Education.

We thus find that the respondent no.3 has considered the claim of the petitioner for grant of benefit as directed by this Court after referring to Government Resolution dated 06.02.2006. Reasons have been assigned while denying benefit to the petitioner. In these proceedings we are not concerned with the correctness or otherwise of the said decision. Since we find that by taking a decision on 03.12.2019 the respondent no.3 has considered the claim of the petitioner, the direction in that regard has been complied with. There is no case for initiating action against the respondent no.3 for wilful disobedience of such direction and for said purpose reference can be made to the decision in ***State of Uttar Pradesh Vs. A.K.Earth Movers and others (2017) 13 SCC 339***. Insofar as the contention that the Government Resolution dated 06.02.2006 and its effect has been ignored as well as the observations in paragraph 2 of the judgment dated 08.07.2019 have been given go by, we find that this could be a ground that could be raised for challenging to the order dated

03.12.2019 if so advised.

In that view of the matter we are not inclined to entertain the contempt petition. It is clarified that if the petitioner raises challenge to the order dated 03.12.2019, it would be open for her to raise all grounds available including the ground that the Government Resolution dated 06.02.2006 has been deliberately ignored/misinterpreted by the respondent no.3.

With these observations the contempt petition is not entertained and it is disposed of.

JUDGE

JUDGE

Andurkar.