

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

CIVIL APPLICATION (O) NO. 1175/2017

IN

MISCELLANEOUS CIVIL APPLICATION (ST) NO.8334/2017

IN

WRIT PETITION NO. 5839/2016 (D)

(Vandana D/o Kisan Meshram Vs. Rashtrasant Tukdoji Maharaj Nagpur University & others)

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

Court's or Judge's order

.....
Mr. Mohan Sudame, Advocate for the applicant/original petitioner
Mr. Abhay Sambre, Advocate for respondent nos. 3 and 4
Mr. N R Patil, AGP for respondent no.2

**CORAM : A.S.CHANDURKAR &
MRS.SWAPNA JOSHI, JJ.**

DATED : 15th January, 2021

CAO NO. 1175/2017:

This is an Application seeking condonation of delay of
37 days in filing the Misc.Civil Application for review.

Heard both sides. Perused the contents of the Application.
On a perusal of the same, we are satisfied that the delay is
properly explained and sufficient ground is made out for
condoning the delay.

In view thereof, the delay in filing the Misc. Civil
Application is condoned. The Civil Application is allowed and
disposed of. M.C.A. be registered.

MCA (ST) 8334/2017:

1. The applicant/original petitioner has filed the present Application seeking review of the order dated 31.01.2017 passed by this Court.

2. The applicant/original petitioner had filed Writ Petition No. 5839/2016 seeking following relief (s) :-

“(a) By an appropriate writ, order and/or direction to direct the respondents 2,3 and 4 to declare and hold that there was no break in service of the petitioner from 27.6.2013 to 8.2.2015, in view of the order dated 2.8.2013 (Annexure D) of this Hon’ble Court of maintaining the status quo.

(b) By an appropriate writ, order and/or direction, to direct the respondents 2,3 and 4 to release the arrears of salary in favour of the petitioner from 27.6.2013 to 8.2.2015 amounting to Rs.16,10,691 /- (sixteen lakhs ten thousand six hundred and ninety one only) in view of the fact that there was no break in service, as the denial of the same is arbitrary, illegal and unjustifiable and does not stand to the scrutiny.”

3. This Court while disposing of the said writ petition has observed that the petitioner was relieved from her work place and two applications moved by her for joining back in Writ Petition No. 3450/2013 were not pressed and the said petition was disposed of on 10.03.2015. In the said petition, no benefit for the period from 02.07.2013 till delivery of the judgment, was granted. In the said petition it was observed that the principle of “no work no pay” was

rightly applied in W.P. No. 3450/2013 and on that count, Writ Petition No. 5839/2016 was rejected.

4. Review of the said order is sought by means of this Application.

5. Mr. Mohan Sudame, learned counsel for the applicant/ petitioner contended that the applicant be paid the arrears of salary so also her prayer for declaration that there was no break in service of petitioner from 27.06.2013 to 08.02.2015 be considered.

6. The learned counsel for respondents opposed the said relief.

7. So far as the case of the petitioner in respect of arrears of salary is concerned, we are of the view that this Court has rightly considered the said aspect by observing that the applicant was already relieved and two applications moved by her for joining back, were not pressed and no relief was ever granted in Writ Petition No. 3450/2013.

8. We, therefore, do not find any error apparent on the face of the record in that regard..

9. While deciding Writ Petition No. 5839/2016 on 31.01.2017 it is noticed that Prayer (a) therein was not adverted to. It appears that to the extent of non-consideration of Prayer (a), a case for invoking review jurisdiction is made out.

As regards the prayer of the applicant for declaration that there was no break in service of applicant from 27.06.2013 to 08.02.2015, it is pointed out by the learned counsel for the applicant that already a representation has been made by the applicant before respondent no.2-Joint Director, Higher Technical Education, Nagpur. However the said

representation is not yet decided.

10. In the aforesaid circumstances, it would be just and proper to direct the respondent nos.3 and 4 to decide the said representation as expeditiously as possible. Hence the order:-

ORDER:

(A) The respondent nos.3 and 4 are directed to decide the representation dated 24.03.2015 filed by the applicant, within a period of eight weeks from the date of receipt of this order.

(B) Copy of the said representation be supplied afresh to the respondent nos. 3 and 4, within a period of two weeks from receipt of this order.

With the above directions, Misc. Civil Application stands disposed of.

JUDGE

JUDGE