

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

CONTEMPT PETITION NO.344 OF 2016
IN
LETTERS PATENT APPEAL NO.262 OF 2011 (D)
IN
WRIT PETITION NO.5890 OF 2010 (D)

1. Ankush S/o Tejrao Lomte,
Aged about 36 years, Occ. Nil
r/o Uswad, Tq. Mantha, Dist. Jalna
 2. Kailash s/o Namdeorao Khandare
Aged about 44 years, Occ. Nil
R/o Kanadi Tq. Mantha Dist. Jalna
 3. Ashruba s/o Wamanrao Khandare
Aged about 39 years, Occ. Nil
R/o Kanadi Tq. Mantha Dist. Jalna
- ... Petitioners

-vs-

1. Santosh s/o Kanhyalal Banmeru,
Aged about 48 years, Occ. Medical
Practitioner, Secretary Amrut Sevabhavi
Sanstha, Parbhani, r/o C/o Durga Clinic,
Bajrang Complex, Loni Road,
Lonar, Dist. Buldana
 2. Dr Prakash s/o Kanhyalala Banmeru
Aged about 53 years, Principal,
Late Kumari Durga K. Banmeru Science
College, Loni Road, Lonar, Dist. Buldana
- ... Respondents

Shri P. B. Patil, Advocate for petitioners.
Shri Ashok P. Raghute, Advocate for respondents.

CORAM : A. S. CHANDURKAR AND PUSHPA V. GANEDIWALA, JJ.
DATE : February 23, 2021

Oral Judgment : (Per : A. S. Chandurkar, J.)

The petitioners had approached the University and College

Tribunal, Nagpur seeking to challenge their alleged otherwise termination of services alleging that on 30/01/2008 they were shown to have resigned from service. The learned Presiding Officer of the University and College Tribunal, Nagpur by judgment dated 31/08/2010 allowed the appeal and after setting aside the otherwise termination directed their reinstatement with continuity of service on the same terms of their service as on 30/01/2008. 50% back-wages were directed to be paid by clarifying that such continuity of service would not confer any more rights on the petitioners than available to them on 30/01/2008. This order was challenged in Writ Petition No.5890/2010 and that writ petition was dismissed on 05/04/2011. Thereafter LPA No.262/2011 preferred by the Management was dismissed on 29/07/2016. Since according to the petitioners there was non-compliance with the direction of reinstatement and 50% back-wages were not paid the contempt petition was filed. In the reply filed on behalf of the respondents it has been stated that on 06/09/2016 the petitioners were reinstated. However since their appointments came to an end in terms of the appointment order, they were relieved on the same day. In paragraph 11 of the reply it has been stated that though the petitioners were entitled to be paid 50% salary till the end of the

academic session of 2007-08 they were infact paid 50% salary till the date of passing of the order by the University and College Tribunal which was 31/08/2010.

After this affidavit was filed there is no rejoinder to the same.

2. Shri P. B. Patil, learned counsel for the petitioners submits that the order of the University and College Tribunal granted continuity of service alongwith 50% back-wages. By not reinstating the petitioners, the respondents had not complied with that direction. He disputed the stand of the respondents that the petitioners were reinstated on 06/09/2016. Hence according to him there was disobedience of the orders passed by this Court.

3. Shri A. P. Raghute, learned counsel for the respondents submitted that the reinstatement of the petitioners alongwith continuity of service was in accordance with the order of appointment dated 25/08/2007 issued to the petitioners. This order of appointment was for a period of one year till the end of academic session 2007-08. Though the petitioners were entitled for 50% back-wages till 30/04/2008 they were infact paid much more amount by way of back-

wages till 31/08/2010. He relied upon the documents filed along with the reply to submit that services of the petitioners were reinstated on 06/09/2016.

4. On hearing the learned counsel for the parties we find that the University and College Tribunal directed reinstatement of the petitioners with continuity of service but on the basis of the rights available to the petitioners on 31/01/2008. In other words, the order of appointment was treated as the basis on which the petitioners were to be reinstated. This aspect has been clarified by the judgment of Writ Petition No.5890/2010 by observing that the order of appointment issued was for one academic session which would have come to an end in April 2008. In other words, the petitioners were entitled to continue in service in terms of their order of appointment till end of academic session 2007-08. No further rights were granted to the petitioners.

5. It has been specifically stated on affidavit that petitioners were paid 50% salary till the appeal was decided by the Tribunal on 31/08/2010. This period for which the back-wages were paid is much more than what was directed to be paid by the Management. Since the

appointment of the petitioners had to come to an end by April 2008, the direction insofar as payment of 50% back-wages thus stands complied with. As regards the aspect of reinstatement, there is a dispute with regard to the actual act of reinstatement. However in our view nothing much would turn on the same since the Management has paid the petitioners 50% salary for the entire period for which they were to be reinstated and even the period of two years thereafter. In the light of these facts we do not find any deliberate disobedience of the order passed by the University and College Tribunal as confirmed by this Court. In that view of the matter the contempt petition stands dismissed with no order as to costs. It is made clear that the respondents are not permitted to recover any excess payment made to the petitioners.

JUDGE**JUDGE**Asmita
BhandakkarDigitally signed by
Asmita Bhandakkar
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