

Esha

IN THE HIGH COURT OF BOMBAY AT GOA

CONTEMPT PETITION NO. 9 OF 2022

IN

WRIT PETITION NO. 416 OF 2009

AGNELO FERNANDES

... PETITIONER

VS

FOMENTO CORP. REPRESENTED BY

DILIP TIMBLO AND 4 ORS.

... RESPONDENTS

Mr. Parikshit Sawant, Advocate for the Petitioner.

Mr. J. Coelho Pereira, Senior Advocate with Mr. Vilas Pavithran, Advocate for Respondent No. 3.

Mr. D. Vernekar, Advocate for Respondent No. 4.

CORAM: G.S. KULKARNI, J.

DATED: 4 OCTOBER 2022

ORAL ORDER.

1. By judgment and order dated 27 September 2018 passed by the co-ordinate Bench (C.V. Bhadang, J.) of this Court in Writ Petition No. 416/2009, the following directions were made:

"11. In my considered view, having regard to the fact that the respondent itself had fixed the salary of the petitioner at Rs.2500/- p.m. from Rs.850/- p.m. which was the last drawn salary when the

services of the petitioner were terminated, it cannot be accepted that the petitioner was not entitled to any increment. In that view of the matter, I find that the petitioner would be entitled to the amount as mentioned in Annexure I to the application i.e. Rs.2,59,650/-. The petitioner has admittedly been paid an amount of Rs.1,23,859/-. Thus, the petitioner would be entitled to an amount of Rs.1,35,791/-. The impugned order is accordingly modified. The respondent would pay to the petitioner a sum of Rs.1,35,791/- (Rupees One lakh thirty five thousand seven ninety one only). Rule is made absolute in the aforesaid terms, with no order as to costs."

2. The present Contempt Petition came to be filed as the respondents had not complied with the said order as the payment of Rs.1,35,791/- was not made. This Court on 28 June 2022 (Sandeep K. Shinde, J.) had issued notice to the respondents.

3. Reply affidavit on behalf of Mr. Dilip Timblo, respondent no. 4 is placed on record.

4. Learned Counsel for respondent no. 3 states that in compliance of the above order passed by this Court, a cheque of Rs.1,35,791/- drawn by respondent no. 3 in favour of the petitioner has been handed over to the Advocate for the petitioner

which according to him is in complete compliance of the orders passed by this Court. It is his submission that respondent no. 3 has accordingly purged the contempt. It is submitted that respondent no. 3 has made such payment to the petitioner without prejudice to his rights and contentions inter se between the respondents.

5. Be that as it may, the learned Counsel for the petitioner, on instructions of the petitioner, who is present in the Court submits that as the payment is now sought to be made and the Contempt Petition itself is now being purged, the contempt proceedings need not proceed any further and the contempt notice be discharged.

6. Accordingly, the contempt notice is discharged. It is clarified that all contentions of parties in any other pending proceeding are expressly kept open.

7. It is clarified that this order shall take effect only after the amount is realized, after the said cheque is deposited. It is made clear that in the event the cheque is dishonoured, it would be considered as an aggravated contempt and the petitioner would be at liberty to revive the proceedings.

8. Contempt Petition is accordingly disposed of in the above terms. No costs.

G.S. KULKARNI, J.

VAIGANKAR
ESHA SAINATH

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