

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

CIVIL APPLICATION (CAW) NO. 43 OF 2020
IN
WRIT PETITION NO. 3836 OF 2016 (D)

Santosh S/o Nanaji Mandhare,

..VS..

State of Maharashtra and Ors.,

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

Court's or Judge's orders

Shri Anand Parchure, Advocate for petitioner.
Smt. S.S. Jachak, A.G.P for respondent Nos.1 to 5.
Ms Nidhi Dayani, Advocate for respondent Nos.6 & 7/applicants.

CORAM : SUNIL B. SHUKRE AND
ANIL L. PANSARE, JJ.

DATED : 04.01.2022

1. Heard.

2. The salary bills were initially submitted by the applicants/original respondent Nos.6 and 7 to the original respondent Nos.2, 3 and 4 but, they were returned to these applicants for the re-submission. Accordingly, they were resubmitted and in the meantime, as per the order passed by this Court on 06th February, 2018 in the petition, these applicants (respondent Nos.6 and 7) had already paid by cheque an amount of Rs.One Lakh to the original petitioner. However, while resubmitting the salary bills, these applicants did not make any effort for reimbursement of Rs.One Lakh already paid to the original petitioner nor did they make

any mention about deduction of amount of Rs.One Lakh from the total amount of arrears of salary to be paid to the original petitioner. Such failure on the part of these applicants only shows that they have given up their claim to get back the amount of Rs.One Lakh paid to the original petitioner.

3. Apart from what is stated above, there is also a doubt about the effect of the direction given to these applicants on 06th February, 2018 for depositing an amount of Rs. One Lakh. This amount was directed to be deposited in Court but, instead of depositing it in the Court, these applicants chose to issue a cheque of Rs. One Lakh in favour of the original petitioner. While issuing the cheque also, no condition was stipulated by these applicants that the amount of cheque would be treated as part payment of arrears of salary. It appears that the cheque for Rs. One Lakh was issued to the original petitioner unconditionally and this is also reflected in the order of the Court dated 05th March, 2018 when this Court directed the original petitioner to accept this cheque without mentioning any condition whatsoever. Even in this application, original respondent Nos.6 and 7 have not come out with any case about the payment of Rs.One Lakh made to the original petitioner as being a part payment of arrears of salary. Then, the order dated 06th February, 2018 also does not show that the direction given to these respondents by this Court regarding depositing of an amount of Rs.One Lakh in this Court was towards part payment of arrears of salary. It

appears that this direction was the culmination of consistent failures on the part of original respondent Nos.6 and 7 regarding payment of arrears of salary as well as their appearance before this Court and, therefore, the order dated 06th February, 2018 is capable of being viewed as in the nature of some kind of penalty imposed upon respondent Nos.6 and 7.

4. In view of above, we find that there is no merit in the application. The application stands **dismissed**.

JUDGE

JUDGE

Kirtak