

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

CIVIL APPLICATION (CAN) NO.22/2022

Ku Shashikala Farida Raipure and others

Vs.

Mr. Anupkumar Yadav and others.

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

Court's or Judge's orders

Shri S. Ramaswami, Advocate h/f R.S. Sundaram, Advocate for
petitioners.

Shri M.I. Dhattrak, Advocate for respondent No.2

Ms M.R. Chandurkar, Advocate for respondent No.3.

CORAM : SUNIL B. SHUKRE AND
SMT. M.S. JAWALKAR, JJ.

DATED : 05.05.2022

Heard.

2. For the reason stated in the application, the application is allowed in terms of prayer clause. The application is disposed of.

3. Issue notice to newly added respondent no.1.

CONTEMPT PETITION NO.141/2020

Heard Shri S. Ramaswami, learned Counsel for the petitioners, Shri Dhattrak, learned Counsel for the respondent no.2 and Ms Chandurkar, learned Counsel appears for Gayatri Mishra, Joint Secretary, Union of India, Ministry of Health and Family Welfare, New Delhi.

2. On going through the judgment of which the non-compliance has been alleged, we find that the directions given in the judgment are required to be complied with only by respondent Nos.1 and 2 and that respondent No.3, being representative of the Union of India, has no role to play in the matter. She, therefore, is discharged as respondent No.3 from this petition.

3. In the judgment rendered on 14.11.2019, non-compliance of which has been complained in this contempt petition, this Court had expressed the opinion that no discrimination between the employees like petitioners and other employees of the State Government and the local body could be made regarding the extension of the benefits of the Pay Commissions and, therefore, the discrimination made against these petitioners in the matter, was held not sustainable in the eye of law. In paragraph No.11, this Court held that the petitioners were entitled to the benefits of the Pay Commissions at par with that of other similarly situated employees and, therefore, directions were given that the benefits of 4th, 5th and 6th Pay Commission recommendations be extended to the petitioners, for the purpose of pay fixation and also fixation of the pension w.e.f. 01.01.1986, 01.01.1996 and 01.01.2006 respectively. This Court also directed to pay the arrears of the salary/pension to the petitioners subject to the bar of limitation.

4. The above referred directions though had been given to the respondent Nos.1 and 2 for extending benefits of 4th, 5th and 6th Pay Commission recommendations to the petitioners, these directions also obliged the respondent Nos.1 and 2 to pay all similarly situated employees, the extended benefits of 4th, 5th and 6th Pay Commission recommendations, which is evident from the opinion expression by this Court which has been reproduced earlier. At the costs of repetition, we may say, the opinion expressed by this Court was that no discrimination between the employees like the petitioners and other employees of the State Government and local bodies could be made regarding the extension of Pay Commission recommendations. Thus, it would be clear that the benefits of 4th, 5th and 6th Pay Commission recommendations are required to be extended not only to the contempt petitioner but also to all similarly situated employees of respondent No.2- Municipal Corporation, Chandrapur and responsibility for extending its benefits to all employees of respondent No.2 falls jointly and severally upon respondent Nos.1 and 2. If the respondent Nos.1 and 2 understand their joint and several responsibility in this matter and discharge responsibility by extending benefits of the 4th, 5th and 6th Pay Commission recommendations and pay the arrears in terms of judgment in question, to all the employees of respondent No.2 Corporation, multiplicity of litigation

would be avoided. If respondent Nos.1 and 2 do not discharge their responsibility in such a manner, there would be other employees of respondent No.2, who would be aggrieved for not extending benefits to them, and would be compelled to again approach this Court.

5. In this view of the matter, we direct newly added respondent Nos.1 and 2 to extend benefits of 4th, 5th and 6th Pay Commission recommendations to all the similarly situated employees of respondent No.2 Corporation, in terms of the judgment dated 14.11.2019, which is a judgment in rem and hence applicable to all similarly situated employees, at the earliest and in any case on or before next date of hearing.

6. Stand over to **11.07.2022**.

(SMT. M.S. JAWALKAR, J.)

(SUNIL B. SHUKRE, J.)

R.S. Sahare