

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

REVIEW APPLICATION NO. 157 OF 2023
IN
CONTEMPT PETITION/740/2019
IN
WRIT PETITION NO. 2679/2015

Parasmal s/o Pukhraj Bafna,
Age 88 years, Occ. Retired
R/o. Plot No. 94, N-3, CIDCO,
Aurangabad.

... Applicant

Versus

The State of Maharashtra
Through the Principal Secretary,
& R.L.A. Law & Judiciary Department,
Mantralaya, Mumbai.

... Respondent.

...

Advocate for the Petitioner : Mr. G.S. Shete
Government Pleader for the Respondent/State : Mr. D.R. Kale

CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.

DATE : 14.07.2023

PER COURT :

The original petitioner from Writ Petition No. 2679/2015 is seeking review of our order dated 10.03.2023 whereby we had disposed of the Contempt Petition preferred by him with following observations :

“1. We have heard both the sides.

2. Petitioner alleges disobedience by respondent no. 2 and its officers of the order passed by this court in Writ Petition No. 2679 of 2015, whereby this Court had an occasion to

consider the grievance of the retired judicial officers who were not being paid/reimbursed the expenses incurred by them against the medical bills, which was supposed to be at par with the serving judicial officers as per the recommendations of the Justice Shetty Commission and Justice Padmanabhan Committee's report.

3. This Court had directed the State Government to take appropriate decision within four months from the date of the order that was passed on 22.03.2019.

4. There is no dispute that no such decision as per the direction of this Court was taken within four months. However, it is also apparent from the affidavit-in-reply that the respondent no. 1 had approached the Supreme Court and put up a challenge to the order of this court by filing a Special Leave Petition No(s). 2656 of 2020, which was dismissed on 04 May 2022.

5. It appears that the government has lateron passed a Resolution on 10 August 2022 granting the relief. Having come across the difficulties in sanctioning the reimbursement bills of the retired judicial officers, another circular dated 13 January 2023 was issued to streamline the process by prescribing the Standard Operating Procedure (SOP).

6. The thrust of the argument of the learned advocate Mr. P. S. Paranjape is on the fact that the decision taken by the State Government only operates prospectively even when several years were taken by it to evolve the policy.

7. Suffice for the purpose to note the observations of this

court in paragraph no. 28 of the order dated 22.03.2019 passed in Writ Petition No. 2679 of 2015. It had directed that the State Government would decide the date for implementing the facility of medical reimbursement to the retired judicial officers as is being provided to the serving judicial officers.

8. Even otherwise, when it is a policy matter and if the State Government has decided to reimburse the expenses against the medical bills of the retired judicial officers from the date of the Government Resolution, it would be within its purview and domain.

9. The Contempt Petition is disposed of.”

2. The learned advocate for the applicant would vehemently submit that the order in the writ petition has been flouted by the respondent-State Government in spite of the fact that the order was carried to the Supreme Court but unsuccessfully. The decision to provide for the reimbursement of the medical bills to the retired Judicial Officers on the line it is being provided to the serving Judicial Officers was the point before this Court in the Writ Petition No. 2679/2015. This Court had expressly recorded displeasure in the manner in which the State Government was turning a Nelson’s eye in spite of the directions of the Supreme Court. When the order was attempted to be obeyed, it is being implemented prospectively when it ought to have been from the date the pay commission came into force as per the direction of this Court.

3. The learned A.G.P submits that in compliance with the order of this Court in Writ Petition No. 2679/2015, the resolution has been passed providing for reimbursement of the medical bills of the retired Judicial Officers. As it is, it was a matter of contempt, the aforementioned order

expressly demonstrates as to how the observations of this Court in paragraph No. 28 of the order passed in the writ petition was borne in mind. This Court has merely demonstrated that it was a policy matter and the reimbursement of the expenses against the medical bills of the retired Judicial Officers from the date of Government resolutions were in tune with the directions of this Court.

4. We have carefully considered the rival submissions and perused the order passed in Writ Petition No. 2679/2015 as also the order under review.

5. In our considered view, the aforementioned order under review by no stretch of imagination can be said to be suffering from some formal defect or error apparent on the face of the record.

6. Since it was a matter of contempt, we were called upon to form an opinion about wilful disobedience by the respondent-State in complying with the directions contained in the order passed in Writ Petition No. 2679/2015. The above conclusions in the order under review would only address that.

7. We cannot undertake a review of the order passed in the Writ Petition No. 2679/2015 under the guise of reexamining the appropriateness of our order passed in Contempt Petition No. 740/2019.

8. The Review Application is dismissed.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-