



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

CIVIL APPLICATION (N) NO. 139/2021 IN CONTEMPT PETITION NO. 157/2019 (D)

IN

WRIT PETITION NO. 3037/1998 (D)

(MAYARAM SAHAJRAM SADHWANI **VERSUS** AJAY GOVINDRAO KURWADE, C.O. MUNICIPAL
COUNCIL KARANJA (LAD), DISTRICT WASHIM & OTHERS)

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

Court's or Judge's order

Dr. R.S. Sundaram, counsel for the applicant-petitioner.

Shri P.P. Deshmukh, counsel for the Non-Applicant-1, 2 & 4.

Ms S.S. Jachak, Assistant Government Pleader for the Non-Applicant-3.

CORAM : A. S. CHANDURKAR AND G.A. SANAP JJ.

DATE ON WHICH ARGUMENTS WERE HEARD : JANUARY 06, 2023.

DATE ON WHICH ORDER IS PRONOUNCED : JANUARY 27, 2023.

By this application, the applicant-original petitioner seeks modification of the judgment dated 02.09.2021 passed in Contempt Petition No. 157 of 2019. By the said judgment satisfaction was recorded that the order dated 20.06.2017 passed in Writ Petition No. 3037 of 1998 had been complied with.

We have heard Dr. R.S. Sundaram, learned counsel for the applicant and Shri P.P. Deshmukh, learned counsel for the non-applicant nos.1, 2 and 4- Municipal Council. We have also perused the contents of the application and the reply filed thereto as well as accompanying documents. Attempt on the part of the learned counsel for the applicant is to indicate that the directions issued in Writ Petition No. 3037 of 1998 have not been complied with in the manner in which the same was required to be complied with. In the said writ petition, the directions were issued to pay unpaid salary to the petitioner as admissible on the post of Octroi Superintendent from 29.09.1997 till he attained the age of superannuation alongwith all available benefits including increments and allowances etc. in accordance with law. While deciding the contempt petition it was noted that though the original petitioner claimed the pay-scale of Rs.1400-2600, in view of the decision taken by the Regional Director Municipal Administration and Divisional Commissioner on 21.01.2019 of holding the petitioner entitled to the pay-scale of Rs.1200-2040 it would be necessary for the

said petitioner to take recourse to the available remedy and such grievance could not be redressed in the contempt petition.

We therefore find that the attempt to seek modification in that regard cannot succeed since it would be necessary for the petitioner to first have the adjudication dated 21.01.2019 set aside. Unless the same is set aside it cannot be held that there has been any wilful disobedience in the compliance of the aforesaid order.

Similarly it is urged that the original petitioner retired on 31.07.2004 but was paid arrears only till 31.03.2002. In reply it is pointed out that the petitioner was paid revised salary from April-2002 till 31.07.2004 which can be seen from the document filed with the additional submissions by the respondent nos.1, 2 and 4 at serial number 3 of Page 62 of the present proceedings.

We therefore find that in the absence of adjudication of the claims sought to be raised by the original petitioner there is no reason to modify the judgment dated 02.09.2021. In any event there is no material to hold that while complying with the directions issued in Writ Petition No. 3037 of 1998 there has been any wilful breach or disobedience of such directions. It may be that there is a likelihood of difference in the amount of entitlement if the contentions of the applicant are accepted. Same would however not qualify to be treated as wilful disobedience of the order. We therefore do not find any reason to modify the judgment dated 02.09.2021. At the cost of repetition and as observed in the judgment dated 02.09.2021 the applicant is free to get his entitlement adjudicated in appropriate proceedings and not in exercise of contempt jurisdiction.

The civil application thus stands dismissed with no order as to costs.

(G.A. SANAP, J.)

(A. S. CHANDURKAR, J.)

APTE

(Corrected as per Hon'ble Court's Order dated 20-02-2025)