

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

CIVIL APPLICATION (O) NO.2097 OF 2019 IN MCA (REVIEW) NO.1097/19

IN

WRIT PETITION NO.2395 OF 2015

Pramod s/o Marotrao Meshram

vs.

Ashok Govindrao Sardar and others.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri C.A.Babrekar, Advocate for applicant.
None for the non-applicants.

CORAM :- A.S.CHANDURKAR, J.

DATE :- 23rd JUNE, 2023

Notice has been duly served on all the non-applicants.

2. The applicant seeks review of the judgment dated 29.01.2016 in Writ Petition No. 2395 of 2015. By the said judgment, it was held that Resolution dated 25.03.2013 passed by the Gram Panchayat, Pimpalkhuta, dismissing the petitioner in the said writ petition was contrary to law. It was accordingly set aside and the original petitioner was directed to be reinstated in service. An opportunity was granted to the Gram Panchayat to take disciplinary action against the original petitioner in accordance with law.

3. It is the case of the applicant that after the services of the original petitioner were terminated pursuant to Resolution dated 25.03.2013, the applicant came to be appointed as 'Water Supply Employee' by the order dated 16.02.2016. This appointment was on permanent basis. However on 26.02.2016 the services of the applicant came to be terminated on the ground that there was an order of reinstatement in favour of the original petitioner. In that backdrop, the applicant seeks review of the judgment dated 29.01.2016.

4. Shri C.A.Babrekar, learned counsel for the applicant submits that a specific stand was taken by the Gram Panchayat in the writ petition that the present applicant had been appointed on the post of 'Water Supply Employee' and he was a necessary party. Paragraph (viii) of the said reply which is at page 88 of the writ petition reads as under:

“viii. It is also submitted that the respondent no.3 village panchayat has appointed employee namely Pramod Marotrao Meshram by way of resolution as the work of the Water Supply to the villagers was hampered and thus the petitioner ought to have joined this employee as respondent as necessary party as the petitioner is very much aware about this development and thus on this count also the petition must fail. It is therefore submitted that taking into account facts, circumstances, documentary evidence and relevant provisions laid down in the Bombay Village Panchayats Act and Rules framed in that context, the action on the part of the respondent no.3 against the petitioner is fully justified and thus petition needs to be dismissed.”

The learned counsel submits that this aspect has not been considered while deciding the writ petition. The learned counsel further submits that the original petitioner has now retired on attaining the age of superannuation.

5. Though the notice has been duly served on all the non-applicants, they have not chosen to enter appearance. I have perused the record of Writ Petition No.2395 of 2015 and it can be seen that the Gram Panchayat had taken a stand that the appointment of the applicant had been made on the post of 'Water Supply Employee' by them. This aspect was not brought to the notice of the Court when the writ petition was finally decided. Since the applicant came to be appointed by Resolution No.1 dated 13.02.2015 and his services were subsequently confirmed on 16.02.2016, he ought to have been heard

before any order in favour of the original petitioner could have been passed. Since the applicant who was a necessary party has not been heard while deciding the writ petition, it is found necessary in the interest of justice to restore the writ petition to consider the case of the present applicant. The original petitioner came to be reinstated pursuant to the judgment/order dated 29.01.2016 and hence the directions issued in paragraph 14 (a to c) of the said judgment are not required to be reviewed. It is informed that the original petitioner has since superannuated. The writ petition is therefore restored only to consider entitlement of the applicant for any consequential relief in the light of his appointment as 'Water Supply Employee' from 13.02.2015 and an order of permanency dated 16.02.2016 coupled with the fact that the said post is presently vacant according to the counsel for the applicant.

6. For aforesaid reasons, the explanation furnished in Civil Application (O) No. 2097 of 2019 is found sufficient to grant the prayer made therein. The civil application is allowed.

Miscellaneous Civil Application St.No.22882/2019 (MCA No.1097/2019) is also allowed in aforesaid terms.

(A.S.CHANDURKAR, J.)

Andurkar.