

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6350 OF 2019

The Administrative Officer, Municipal
School Board, Kolhapur

....*Petitioner*

: *Versus* :

Shri. Raju Pandurang Ingavale,
since deceased through his heirs
and legal representatives and Ors.

....*Respondent*

Mr. Vikrant Anand Desai *h/f. Mr. S.M. Kamble, for the Petitioner.*

CORAM : SANDEEP V. MARNE, J.

Dated : 26 June 2024.

P.C. :

1) By this petition, Petitioner-Municipal School Board, Kolhapur has challenged order dated 7 May 2018 passed by the Presiding Officer, Labour Court-II, Kolhapur rejecting the application filed by the Petitioner for seeking recall of the judgment and order dated 30 November 2016 passed in Application (IDA) No. 21 of 2014. It appears that at the time when the Application (IDA) No.21 of 2014 was decided on 30 November 2018, the Advocate engaged by the Petitioner-board was not present, essentially on account of his appointment as Member of the Industrial Court, Thane on 8

September 2016. On that count, recall of the judgment and order dated 30 November 2016 is sought.

2) I have heard the learned counsel appearing for the Petitioner and I have considered the impugned order, as well as other records of the case.

3) It appears that by the time the Petitioner-Board applied for recall of the judgment and order dated 30 November 2016, the employee had passed away and accordingly his legal heirs were brought on record. Perusal of the application filed by the deceased employee would indicate that he sought recovery of salary for the months of March 2008 to September 2008 amounting to Rs.86,415/-, as well as difference of Dearness Allowance for the period from January 2014 to April 2014 amounting to Rs.4,500/-. Perusal of the reply filed to the application would indicate that no justification was offered therein for non-payment of salary during March 2008 to September 2008. Only the contention with regard to the suspension of the employee during January to April 2014 was raised. The suspension could be relevant only for the purpose of payment of difference of Dearness Allowance from January to April 2014. The said amount of difference of Dearness Allowance was minuscule as compared to the main relief of non-payment of salary of Rs.86,415/-. The employee has passed away and it would be iniquitous for his legal heirs to defend the present petition that too for the purpose of claiming difference towards Dearness Allowance of Rs.4,500/-. There appears to be no justification that the salary from March 2008 to September 2008 was not paid to the employee. Therefore, even on merits no case is made out by the

Petitioner-Board for setting aside the judgment and order dated 30 November 2016. No useful purpose would be served in recalling the said order by setting aside the impugned order dated 7 May 2018. I do not find any reason to interfere in the impugned order. The Writ Petition is accordingly **rejected**.

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[SANDEEP V. MARNE, J.]