

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.428/2018.

(S.B.)

Sharad Dinkar Pachkhede,
Aged about 56 years,
Occ-Service,
R/o C/o K.S. Awatade Patel Nagar,
Chandrapur.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Principal Secretary,
Department of Water Supply & Sanitation,
7th floor, Gokuldas Tejpal Hospital Bldg,
Lokmanya Tilak Road,
Mantralaya, Mumbai-04.
2. The Director,
Ground Water Supply and Development Agency,
(M.S.), Bhujal Bhavan, Shivaji Nagar,
Pune-411 005.
3. The Deputy Director,
Ground Water Supply and Development Agency,
(M.S.), Pradhikaran Building,
Telangkhedi, Civil Lines, Nagpur.
4. The Senior Geologist,
Ground Water Supply and Development Agency,
Administrative Building, Room Nos. 15 & 16,
Chandrapur.

5. The Senior Geologist,
Ground Water Supply and Development Agency,
Complex Area, Barrack No.2, Gadchiroli. **Respondents**

Shri S.K. Thengri, the Ld. Advocate for the applicant.
Shri S.A. Deo, the learned C.P.O. for the respondents.

Coram:-Shri J.D. Kulkarni,
Vice-Chairman (J)

ORAL JUDGMENT

(Passed on this 30th day of July 2018.)

Heard Shri S.K. Thengri, the learned counsel for the applicant and Shri S.A. Deo, the learned C.P.O. for the respondents.

2. In this O.A., the applicant is claiming following reliefs:-

(i) Issue directions to the non-applicants for making payment of the claim of back wages of the applicant from the period 24.10.1981 to 11.3.2000 in the interest of justice.

(ii) Quash and set aside the order dated 4.2.2016 and 1.4.2015 passed by non-applicant Nos. 1 & 3.

3. The learned C.P.O. submits that the application is not tenable and it is nothing, but abuse of process of law, as the

applicant is litigating the same relief again and again in spite of decision given by the Hon'ble High Court and the Hon'ble Apex Court. He invited my attention to the order passed by the Hon'ble High Court in NPA No. 39/2009 in W.P. No. 4669/2005 on 11.3.2010 and particularly para Nos.32 to 34 which read as under:-

“32. In the midst of hearing, anticipating the questions of back wages to be offered, to avoid further loss of time thereon, the workman had volunteered to forego back wages in the event he succeeds in getting reinstatement. This pursis has reduced the pecuniary burden of the employer and this Court to exert to write on the point of back wages.

33. The result that inures is as follows:-

Letters Patent Appeals succeed and judgment and order passed by the learned Single Judge impugned has to be set aside, and the complainant is entitled to be reinstated by setting aside both the termination orders.

34. In the result, this Court directs as follow:-

(a) Letters Patent Appeal No. 36 of 2009 filed by the workman is allowed. W.P. No.4669 of 2005 filed by the workman is allowed.

(b) Letters Patent Appeal No. 37 of 2009 filed by the workman is partly allowed and the employer's W.P. No. 5088 of 2005 is dismissed, except as clarified in order clause (d).

(c) Complaint (ULP) No. 514 of 1990 and Complaint (ULP) No. 84 of 1997 of Labour Court, Chandrapur are partly allowed.

(d) Complainant-workman is reinstated with continuity of service, however, without back wages. He shall be entitled to all consequential benefits, except getting actual payment of arrears of back wages.”

4. From the aforesaid order, it is clear that the applicant himself has agreed that he will not claim back wages and he was accordingly reinstated with continuity of service without back wages.

5. Against the said order passed by the Hon'ble High Court, the State preferred S.L.P. before the Hon'ble Apex Court bearing No. 24539 and 24540 of 2010. But the order of reinstatement was maintained and petition was dismissed.

6. The applicant thereafter has filed Writ Petition bearing No. 3054/2016 and in the said Writ Petition, following order was passed by the Hon'ble High Court:-

“Heard. By this petition, the petitioner seeks a directions to the respondents to consider the claim of the petitioner for regularization of his services from 24.10.1981, as per the directions in Letters Patent Appeal No. 36/2009.

Shri Gangane, the learned Assistant Govt. Pleader appearing for respondent Nos. 1 to 4 states, on instructions, that during the pendency of the writ petition, the grievance of the petitioner has been redressed; inasmuch, by an order, dated 4.2.2016 the services of the petitioner are regularized from 1981 and the benefits payable to the petitioner after 11.3.2010 are also sanctioned.

In view of the statement made by the learned Assistant Govt. Pleader, we find that the grievance of the applicant should stand redressed.

The writ petition stands disposed of with no order as to costs.”

7. Thereafter the applicant has preferred Contempt Petition No. 82/2017 in W.P. No. 3054/2016 in which following order was passed by the Hon'ble High Court on 8.3.2017:-

“Though fact that directions issued by this Court have been complied with is not in dispute, Adv. Shri Thengre wants to demonstrate that compliance is belated.

However, in view of compliance and as we do not find any oblique motive, we are not inclined to intervene in continuing the Contempt Petition. Contempt petition is disposed of.”

8. The learned CPO has invited my attention to the affidavit of the Chief Secretary, Government of Maharashtra. Copy of which is placed on record at page Nos. 145 to 149 (both inclusive) (Annexure A-20). In the said affidavit, the Chief Secretary, Government of Maharashtra has clearly stated that as to how the applicant was not entitled to back wages because of the orders of the Hon'ble High Court and has mentioned that the payment of which the applicant was entitled after reinstatement, has already been granted. In view of this affidavit, the C.P. was dismissed.

9. Now again, the applicant has claimed same relief whereby he has claimed back wages for the period from 30.10.1981 to 11.3.2010 that too by filing this O.A. on 16.5.2018. From the aforesaid facts, it will be clear that the O.A. filed by the applicant is nothing but abuse of process of law and inspite the fact that he

himself has volunteered to forego back wages and in view of the order of the Hon'ble High Court, fully knowing well that he was not entitled to such back wages, still this application has been moved. The application, therefore, stands dismissed with cost of Rs. 5,000/-

(J.D.Kulkarni)
Vice-Chairman(J)
30.7.2018.