

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**CONTEMPT PETITION NO.80 OF 2018
IN
ORIGINAL APPLICATION NO.622 OF 2016
AND
ORIGINAL APPLICATION NO.643 OF 2016**

DISTRICT: - AURANGABAD

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1. Manik S/o Tukaram Takalkar,)
Age : 65 years, Occ. Retired,)
R/at: N-11, B-21/4, HUDCO,)
T.V. Centre, Near Datta Mandir,)
Aurangabad.)
 2. Karbhari S/o Vithalrao Bhokre,)
Since died through LRs,)
Mathurabai W/o Karbhari Bhokre,)
Age: 58 years, Occ. Household,)
R/at: Rajiv Gandhi Nagar,)
Plot No.47, N-2, CIDCO,)
Thakre Nagar, Aurangabad.)
 3. Mirza Itbar Gani Baig,)
Age: 67 years, Occ. Retired,)
R/at: Rahmaniya Colony,)
Galli No.9-A, H. No.8/2488,)
Kiradpura, Aurangabad.)
 4. Madhav S/o Sahebrao Bhalerao,)
Age: 66 years, Occ. Retired,)
R/at: N-12, G 69, Swami Vivekananda)
Nagar, HUDCO, Aurangabad.)
 5. Mohd Mohsin Mohd Yasin Shaikh)
Age: 60 years Occ. Retired,)
R/at: Holi Galli, Sillod Tal Sillod)
Dist. Aurangabad.)

6. Chagan s/o Sandu Ghusinge)
 Age; 60 years Occ. Retired,)
 R/at: Plot No.38, Survey No.51/2,)
 Balaji Nagar, Pisadevi Road, Harsool,)
 Tq. & Dist. Aurangabad.)
7. Balkrushna S/o Shankarao Kulkarni)
 Age: 61 years, Occ. Retired.)
 R/at: Osmanpura, Aurangabad.)
8. Bhaurao S/o Mainaji Sapkal)
 Since died through LRs,)
 Nirmalabai W/o Bhaurao Sapkal)
 Age: 58 years Occ: House Wife)
 R/at: Sillod, Tal. Sillod,)
 Dist. Aurangabad.)
9. Govind S/o Yadavrao Bharsakle)
 Age: 62 years, Occ: Retired,)
 R/at: Plot No.100, Mhada Colony,)
 Ramkrushna Colony, Shahanurmiya)
 Darga Road, Osmanpura, Aurangabad,)
 Dist. Aurangabad.)...APPLICANTS

V E R S U S

1. The State of Maharashtra,)
 Through its Secretary,)
 Shri. Ashishkumar Sing)
 Public Works Department,)
 Mantralaya, Mumbai -32.)
2. Shri. Atul B. Chavan)
 The Superintendent of Engineer,)
 Public Works Department,)
 Aurangabad.)
3. Shri. Sundardas S. Bhagat)
 The Executive Engineer,)
 Public Works Department,)
 Aurangabad.)

4. Shri J.R. Menon)
 The Director,)
 Account and Treasures,)
 New Government Kuteer No.15 and 16,)
 Plot No 176 Free Press General)
 Marg, Mumbai 021400.)
5. Shri D.V. Jagtap)
 The Joint Director,)
 Account and Treasures,)
 Aurangabad Near Collector Office,)
 Aurangabad.)
6. Shri. Deepak Pradhan)
 The Account Officer,)
 Account and Treasure)
 Pay Verification Unit,)
 Near Collector Office,)
 Aurangabad.).... RESPONDENTS

APPEARANCE :Shri R.P.Bhumkar, Advocate for the Applicants.
 :Shri M.S.Mahajan, Chief Presenting Officer for the respondents.

CORAM : JUSTICE A.H.JOSHI, CHAIRMAN
 AND
 ATUL RAJ CHADHA, MEMBER (A)

PER : JUSTICE A.H.JOSHI, CHAIRMAN

Reserved on : 20-02-2019

Pronounced on : 22-02-2019

ORDER:

1. Heard Shri R.P.Bhumkar learned Advocate for the Applicants and Shri M.S.Mahajan learned Chief Presenting Officer for the respondents. Perused the record.

2. By the present Application for Contempt, applicants pray for dealing the respondents for the act of willful disobedience of the order passed by this Tribunal on 07-04-2018 in O.A.No.622/2016 & 643/2016, which order reads as follows:

“(i) The O.As. are partly allowed.

(ii) The respondent no.4, i.e., the Director of Accounts and Treasures, Mumbai is directed to take decision on the recommendation letters dated 28/12/2015 and 04/04/2016 within a period of three months from the date of this order and to take further decision to revise applicants’ pension accordingly if covered by the decision of Hon’ble High Court in Writ Petition no.1495/2014 as cited supra. No order as to costs.”

(Quoted from paper book page 100-101)

3. Applicants’ Advocate has served a notice on respondents intimating that due to failure to comply with the order of this Tribunal an application for action for Contempt would be lodged against them. Copy of the notice served by the applicants is placed on record at Annexure A-13 (paper book page 102) which is dated 31-07-2018.

4. Respondents-Contemnors have answered the notice by communication dated 22-06-2018, copy whereof is on record at Annexure R-5, (paper book page 159). According to the respondents, the directions of this Tribunal to decide the applicants' representations have been duly complied with and it is a fact that the applicants' claims have been refused. Copy of the said decision sent by the Government to the Director, Accounts and Treasuries, Maharashtra State, Mumbai, which comprehends reply and gives guidelines to decide the communications dated 28-12-2015 (paper book page 79-81) and 04-04-2016 (paper book page 81-82, which communications stand replied / redressed. Copy thereof is given to the present applicants.

5. Respondents, therefore, claim that no contempt has occurred and the Contempt Application may be dismissed.

6. This Tribunal has perused the contents of the O.A.No.622/2016 & 643/2016, copy whereof is also placed on record by the preset applicants at paper book page 21-36. Prayer contained in the O.A. reads as follows:

“(B) In view of the above facts and circumstances, this Hon’ble Tribunal would be pleased / Sec. 19 of Administrative Tribunal Act, 1985, quash and set

aside the letter dated 28/12/2015 and 04/04/2016 passed by the respondent No.4 and to direct the respondents to grant the revise pension to the applicants.

(C) In view of the above facts and circumstances, this Hon'ble Tribunal would be pleased / Sec. 19 of Administrative Tribunal Act, 1985 to direct the respondents to re-fix and revise the pay-scale of the applicants."

(Quoted from paper book page 35)

7. It is to be noted that in the background that the present applicants craved and wanted that communications dated 28-12-2015 (paper book page 79-81) and 04-04-2016 (paper book page 81-82) be quashed and set aside, this Tribunal in its judicial act chose not to allow the Original Applications in terms of prayers, and rather found it appropriate and in the fitness of things to give directions to the respondent no.2 herein to decide the communications which were in the nature of seeking advice. What was imperative is that the Director, Accounts and Treasuries, Mumbai i.e. respondent no.4 had to reply to the respondent no.5's queries.

8. Record shows that the respondent no.2 found it necessary to seek guidance from the Government and the

Government has given ruling through the communication dated 22-06-2018 (Annexure R-5, paper book page 159). Eventually, decision of the Government is adverse to the applicants. Be it, as it is, yet the applicants contend that the stance of the Government is wrong and the Government has taken decision adverse to the interests of the applicants, which according to the applicants constitutes a contempt. We consider that right course of action for the applicants would have been to challenge the said decision before the appropriate forum, if so advised.

9. In the peculiar facts and circumstances of the case as the applicants had prayed to this tribunal for quashing of the communications dated 28-12-2015 (paper book page 79-81) and 04-04-2016 (paper book page 81-82), this Tribunal instead of acceding to the said prayer, gave a direction to decide the communications, which speaks in volumes that the applicants' prayers and claims have not been adjudicated by this Tribunal. Therefore, rejection of claims of the applicants by the State could be open to challenge depending upon advice which applicants receive.

10. With the foregoing observations, we conclude that the contempt whatsoever has not occurred. Ordinarily legal

advice should have been in favour of right action. However, it seems that the applicants were advised to file the present application for action for Contempt. This Tribunal can only express sympathy for the loss of time of the applicants and do nothing more.

11. Accordingly, present application for Contempt No.80/2018 stands dismissed with costs.

(ATUL RAJ CHADHA)
MEMBER (A)

(A.H.JOSHI)
CHAIRMAN

Place : Aurangabad
Date : 22-02-2019.