

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

Contempt Petition No.44 of 2009

In

Writ Petition No.3451 of 2008 (D)

(Sou. Meena w/o Laxmikant Jumde v. Mr. Gangadhar Vishweshwar
Nakade

Shri P.D. Meghe, Advocate for Petitioner.

Shri B.G. Kulkarni, Advocate for Respondent.

CORAM : R.C. Chavan, J.

DATED : 30th April, 2009

This petition has been filed complaining disobedience of the order passed by this Court on 20-11-2008.

The relevant part of the order reads as under :

“We have been assured by Mr. Kulkarni, the learned counsel appearing for respondent No.1, that the enquiry will be completed within 120 days from 5/11/2008 and the dues of subsistence allowance, if any, shall be cleared within a period of two weeks from today.”

2. It is the grievance of the petitioner that she has been paid a sum of Rs.36,684/- towards subsistence allowance till 30-9-2008, but the balance has not been paid.

I have heard the learned counsel for the parties.

3. The learned counsel for the petitioner states that in view of Rule 37(2)(f) of the Maharashtra Employees of Private School (Conditions of Service) Rules, 1981, the inquiry shall ordinarily be completed within a period of 120 days and in case, the inquiry is not completed within a period of 120 days, the employee shall cease to be under suspension and shall be deemed to have rejoined duties, without prejudice to continuance of the inquiry.

4. The learned counsel for the respondent points out that this period of 120 days could be extended under the same Rule and the order, disobedience whereof is complained of, itself makes it clear that the period of 120 days shall be computed from 5-11-2008. Thus, till completion of 120 days from 5-11-2008, there is no question of the petitioner having been deemed to have joined duties or thereby entitled to full salary. He further points out that after a period of 120 days, i.e. after four months, the subsistence allowance could be increased by 50% of the allowance, i.e. upto 75% of the pay. It does not entitle an employee under suspension to full pay even beyond the period of four months, if the period of completion of enquiry has been extended by the approval of the Deputy Director.

5. In this case, the Court itself has granted the period of 120 days with effect from 5-11-2008 for completion of enquiry and, therefore, till that period is over, there would be no question of the petitioner being entitled to full salary, as if she had resumed duties. In view of this, the grievance of the petitioner appears to be based on incorrect understanding of the rules as well as the order of this Court. Should any amount be due to the petitioner, she would be entitled to demand the same from the respondent and seek appropriate reliefs. The amount paid by the respondent thus complies with the order passed by this Court on 20-11-2008.

6. The petition is, therefore, disposed of.

JUDGE

Lanjewar