



Cont.P(MD)No.64 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 25.01.2023

CORAM

**THE HON'BLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR.JUSTICE MR.JUSTICE SUNDER MOHAN**

**Cont.P(MD)No.64 of 2021
in
W.A(MD)No.607 of 2020**

R.Devaraj

.. Petitioner/1st Respondent

Vs.

P.Sankaralingam,
Director,
State Agricultural Extension Management Institute,
(STAMIN),
Kudimiyamalai,
Vayalogam Post-622 104,
Illuppur Taluk,
Pudukkottai District.

.. Contemnor/Appellant

PRAYER: Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971, to punish the contemnor/respondent for his willful disobedience of the order passed by this Court in W.A(MD)No.607 of 2020



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dated 27.08.2020.

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For Petitioner : Mr.P.Jamalmohamed

For Respondent : Mr.Veerakathiravan
Additional Advocate General
assisted by
Mr.D.Sasikumar
Additional Government Pleader

ORDER

DR.G.JAYACHANDRAN, J.
and
SUNDER MOHAN, J.

This contempt petition is filed by one Devaraj, who was working as a dailywager in the State Agriculture Extension Management Institute (STAMIN), Pudukkottai District. As per the affidavit filed by him, it is seen that in connection with a theft case while he was on duty, he was orally terminated from service on 07.10.2003 and his representation was not taken into consideration. Hence, he approached Labour Court, Tiruchirappalli and initiated I.D.No.141/2004 challenging the oral termination and sought for reinstatement with continuity of service and backwages.



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2. The dispute was contested by the respondent. The Labour Court passed an award in favour of the workman, namely, Devaraj with a direction of reinstatement with continuity of service and 25% of back wages along with all other attendant benefits. This award of the Labour Court, Trichirappalli, dated 09.11.2012 came to be challenged by the employer in W.P(MD)No.20193/2014. The said writ petition was dismissed by this Court vide order dated 18.11.2019. Hence, an intra-court appeal was instituted by the employer in W.A(MD)No.607 of 2020. The Division Bench of this Court, on 27.08.2020, dismissed the writ appeal and confirmed the order of the Single Judge dated 18.11.2019 besides the Division Bench has also taking note of the common order passed in *O.A.Nos.5644 to 5637 and 5723 to 5725 of 1993*, in the matter between ***R.Adaikalam and others v. The Director of Agriculture, Chepauk, Madras-5 and another***, wherein the issue of regularisation of the dailywagers was taken into consideration and some positive direction was given by directing the appellant to consider the case of Devaraj on par with the other dailywagers, whose service was regularised as per the order passed in *O.A.Nos.5644 to 5637 and 5723 to 5725 of 1993* dated 11.12.2008. After the Division Bench passed the order



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in the writ appeal on 27.08.2020, alleging that the employer is not permitting to join duty and has not complied the order of the Division Bench passed in W.A(MD)No.607 of 2020 dated 27.08.2020, the present contempt petition is filed.

3. The learned Additional Advocate General appearing for the contemnor submitted that the contempt petitioner, Devaraj was a dailywager terminated from service for his dereliction of duty. While he was on night duty, a BPL Television kept in the guest house was stolen and a case was registered in Crime No.243 of 2003 under Sections 457 and 380 IPC. However, finding fault with the oral termination of the dailywager, Labour Court, directed to reinstate Devaraj in service with 25% of the back wages and other attendant benefits. This was challenged by the employer by way of writ petition in W.P(MD)No.20193 of 2014. Having lost in the writ petition, writ appeal was filed and pursuant to the direction passed by the Division Bench in W.A(MD)No.607 of 2020 on 28.10.2020, Devaraj was directed to give an undertaking as per the G.O.Ms.No.109 Agriculture Department dated 04.03.2016 which was issued pursuant to the order passed



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by the Tamilnadu Administrative Tribunal in the batch of Original Applications in O.A.Nos.5644 to 5637 and 5723 to 5725 of 1993 dated 11.12.2008. The said Devaraj did not come forward to give the undertaking. Under some lame pretext, refused to give the undertaking. Had he given the undertaking like others, it would have enabled him to get regularised on par with other 34 dailywagers, who got the benefit of regularisation pursuant to the order passed in Original Appeals by the Tribunal and which has been referred by the Division Bench in their order dated 27.08.2020.

4. An alternate opportunity was given thereafter to Devaraj to come and join service atleast as a dailywager if he is not interested in giving the undertaking. The said Devaraj did not come forward to join duty even as a dailywager. Only after attaining superannuation, he has filed this contempt petition as if the employer has failed to comply the order of the Division Bench.

5. The learned Additional Advocate General also would fairly submit that though the writ petitioner Devaraj has failed to give the undertaking to



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avail the opportunity of getting regularisation of his service on par with the other 34 employers and also not reported duty as a dailywager inspite of intimation to him on 02.12.2020. The contemnor is ready to pay the balance 75% from the date of award passed by the Labour Court till 27.08.2020 the date of order passed by the Division Bench in W.A(MD)No.607 of 2020.

6. On considering the submissions made by the learned Additional Advocate General appearing on behalf of the contemnor and the material placed before this Court, this Court finds that inspite of specific order passed by this Court vide order dated 27.08.2020 in W.A(MD)No.607 of 2020, Devaraj has neither given the undertaking as per the format to get his service regularised when he was asked to give undertaking vide letter dated 28.10.2020 nor he has joined duty as dailywager when the same was offered to him vide letter dated 02.12.2020. Therefore, we find no fault in the conduct of the contemnor, at the same time, Devaraj, who has failed to avail the options given to him to get his service regularised or to continue service as a dailywager, cannot be deprived of the benefit of the order dated 27.08.2020 solely due to his indiscretion.



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7. Hence, the contemnor is directed to pay the balance 75% of the wages from 09.11.2012 to 02.12.2020 (the date of which Devaraj was offered to come and join as dailywager) with other benefits if any within a period of eight(8) weeks from the date of receipt of a copy of this order.

8. Accordingly, this contempt petition is closed.

[G.J.,J.] & [S.M.,J.]
25.01.2023

PJL

To
P.Sankaralingam,
Director,
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(STAMIN),
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