



CONT.A(MD)Nos.8 and 9 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.09.2023

CORAM

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
AND
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

CONT.A(MD)No.8 and 9 of 2023
and
C.M.P.(MD)Nos.9726 and 9725 of 2023
in
CONT. P(MD)No.374 of 2020

CONT.A(MD)No.8 of 2023

Pradeeph Yadav, I.A.S.,
The Secretary,
to the State of Tamil Nadu,
Department of School Education,
Fort. St. George,
Chennai-600 009.

: Appellant/1st Contemnor

Vs.

1.P.Gnanapragasam

: 1st Respondent/Petitioner

2.Muthupalanichamy,
The Director of Teacher Education Research
and Training Education,
DPI Campus, College Road,
Chennai-600 009.

3.Boobala Anto,
The Principal,
District Institute of Education and Training
Munanjipatti, Tirunelveli District.

4.Ponnu
The Correspondent,
Oliyasthanam Teacher Training Institute Palayamkottai,
Tirunelveli District. ... Respondents 2 to 4/Contemnors 2 to 4



CONTA(MD)Nos.8 and 9 of 2023

[Contempt Petition is dismissed as against the 3rd respondent/4th Contemnor vide order dated 31.07.2023)

Prayer:

Contempt Appeal filed under Section 19(1) of Contempt of Courts Act, 1971, to set aside the order of punishment passed in Cont.P(MD)No.374 of 2020, dated 02.08.2023.

For Appellant	: Mr.Veera Kathiravan Additional Advocate General assisted by Mr.A.Kannan Additional Government Pleader
For R1	: Mr.K.Ragatheesh Kumar for Issac Chamber for R1
For R2 & R3	: Mr.J.Ravindran, Additional Advocate General assisted by Mr.D.Sadiq Raja Additional Government Pleader

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- 1.Muthupalanichamy,
The Director of Teacher Education Research
and Training Education,
DPI Campus, College Road,
Chennai-600 009.
- 2.Boobala Anto,
The Principal,
District Institute of Education and Training
Munanjipatti, Tirunelveli District. : Appellants/Contemnors 2 & 3

Vs.

1.P.Gnanapragasam : 1st Respondent/Contempt Petitioner



CONTA(MD)Nos.8 and 9 of 2023

2.Pradeeph Yadav, I.A.S.,
The Secretary,
to the State of Tamil Nadu,
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The Correspondent,
Oliyasthanam Teacher Training Institute Palayapettai,
Tirunelveli District. ... Respondents 2 & 3/Contemnors 1 & 4

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Courts Act, 1971, to set aside the order of punishment passed in
Cont.P(MD)No.374 of 2020, dated 02.08.2023.

For Appellants : Mr.J.Ravindran,
Additional Advocate General
assisted by Mr.D.Sadiq Raja
Additional Government Pleader

For R1 : Mr.K.Ragatheesh Kumar
for Issac Chamber

For R2 : Mr.Veera Kathiravan
Additional Advocate General
assisted by Mr.A.Kannan
Additional Government Pleader

COMMON JUDGMENT

(Judgment of the Court was made by D.BHARATHA CHAKRAVARTHY, J.)

A. The Appeals :

These two contempt appeals filed under Section 19(1) of the



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Contempt of Courts Act 1971 arise out of the order passed by the learned Single Judge in CONT.P(MD)No.374 of 2020, dated 02.08.2023 and as such are taken up and disposed of by this common judgment.

1.1 By the said order, the appellant in CONT.A(MD)No.8 of 2023 namely, Pradeep Yadav and the appellants in CONT.A(MD)No.9 of 2023 namely, Muthupalanichamy and Boopala Anto were found guilty of contempt for willfully disobeying the order of this Court in W.P.(MD)No.10915 of 2007 dated 03.12.2012. The learned Single Judge imposed a punishment of Simple Imprisonment for a period of two weeks and to pay a fine of Rs.1,000/- each and in default to undergo Simple Imprisonment for three days.

B. The Facts in Brief:

2. The first respondent in these contempt appeals, namely, P.Gnana Pragasam was appointed as Sweeper-cum-Gardener on 03.01.1966, on consolidated basis, in Oliyasthanam Teacher Training Institute, Palayapettai, Tirunelveli District, which is a Government Aided Teacher Training Institute.



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2.1 The Government issued G.O.Ms.No.1399 (Public Services (F) Department) dated 22.04.1971 to bring such contingent employees who had put in not less than five years of service into time scale of pay. Subsequently, another Government Order was also passed in G.O.Ms.No.557 (Education Department), dated 01.04.1981 once again reiterating that these contingent employees who had put in not less than five years of service as on 01.04.1979 to be brought in the time scale of pay with effect from 01.07.1979.

2.2 The first respondent made several representations for regularisation of his service as per the Government Orders. However, the same were not considered. The first respondent, therefore approached this Court by W.P.No.10364 of 2000 and by an order dated 26.06.2000, this Court directed the representation of the first respondent to be considered on the basis of the above Government Orders. However, no orders were passed and the first respondent retired from service upon superannuation on 30.06.2006 having put in 41 years and five months of service.

2.3 After his retirement, orders were passed on 07.03.2007 and thereafter, on 07.09.2007 rejecting the request of the first respondent/petitioner on the grounds that the above Government



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Orders are meant for Aided Private Schools only and that it will not apply for Government Aided Teacher Training Institutions. The first respondent/petitioner, therefore, filed W.P(MD)No.10915 of 2007 and by a judgment dated 03.12.2012, the learned Single Judge considered the issue in detail and held that the Government Orders were very much applicable to the Government Aided Teacher Training Institutes also and allowed the writ petition on the following terms:

“9. Applying the said decision, to the facts and circumstances of the present case as well as by considering the very conduct of the first respondent in regularization of service of the similarly situated persons through G.O.Ms.No. 156, dated 23.12.1997 and G.O.Ms.No.46, dated 8.2.00 I find every justification in allowing this Writ Petition. Accordingly, the Writ Petition is allowed and the impugned order is set aside. The respondents are directed to regularize the service of the petitioner w.e.f. 01.04.1979 on par with that of the similarly placed persons and extend all the monetary benefits by passing suitable orders within a period of eight weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed. No costs.”

(emphasis supplied)

2.4 Aggrieved thereby, the authorities filed W.A(MD)No.1147 of 2013 which came to be dismissed by an order dated 05.08.2019 and the operative portion of the order read as follows:



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“13.In the result, the Writ Appeal is dismissed, confirming the order passed in WP(MD)No.10915 of 2007. However, considering the facts and circumstances of the case, there shall be no orders as to costs. Consequently, connected miscellaneous petition is closed.

14.This Court also makes it very clear that the allowing of the writ petition and dismissal of the present writ appeal came to be rendered on the facts and circumstances of the present case only and it cannot be cited as a general proposition or precedent. It is also to be noted that the claim of the concerned individuals have to be decided on issue relating to the delay and laches also.”

2.5 Even thereafter, the order was not complied and therefore, the contempt petition in CONT.P(MD)No.374 of 2020 came to be filed. Thereafter, by G.O.(1D)No.52, dated 19.03.2021, an order was passed by regularising the services of the first respondent, but, however, giving the financial benefits only from the date of his retirement ie., with effect from 30.06.2006. The relevant portion of the Government order is extracted hereunder:

“5.மாநிலக் கல்வியியல் ஆராய்ச்சி மற்றும் பயிற்சி நிறுவன இயக்குநரின் கருத்துரு கவனமுடன் பரிசீலிக்கப்பட்டு, மேலே முதலாவதாகப் படிக்கப்பட்ட நீதிமன்ற தீர்ப்பாணையினை செயல்படுத்த வேண்டி, திருஞெல்வேலி மாவட்டம், ஊழியஸ்தானம் அரசு உதவி பெறும் ஆசிரியர் பயிற்சி நிறுவனத்தில் சில்லரைச் சேலவின பணியிடத்தில் துப்புரவாளர் மற்றும் தோட்டக்காரராக பணிபுரிந்து ஓய்வு பெற்ற திரு.பி.ஞானப்பிரகாசம் என்பவரின் பணியினை 01.04.1979 முதல் முறையான பணியிடத்தில் வரன்முறை செய்தும், தனியர் பணியிலிருந்து



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30.06.2006 – ல் ஓய்வு பெற்றதால் பண்பயன்கள் 30.06.2006 முதல் தனியருக்கு வழங்கலாம் எனவும், இதற்கான செலவினத்தை அரசு உதவி பெறும் ஆசிரியர் பயிற்சி நிறுவனங்களுக்கு வழங்கப்படும் மானியத்தின் அடிப்படையில் வழங்கலாம் எனவும் அரசு ஆணையிடுகிறது.”

2.6 When the order was placed before this Court and the contempt was sought to be closed, the learned Single Judge categorically opined *prima facie* the order itself would amount to contempt in view of the categorical directions contained in the writ petition and posted the matter further for the authorities to response. The relevant portion of the order of the learned Single Judge dated 01.04.2021 is extracted as hereunder:

“2. However, it appears that vide G.O.(1D).No.52, dated 19.03.2021, though the petitioner's service was regularised from 01.04.1979, restricted the monetary benefits from the date of his retirement. This Court is of the Prima facie view that it is a contempt of Court. Hence, the first respondent is directed to clarify the issue and file an appropriate affidavit to that effect.”

2.7 Even thereafter, the authorities sought to justify the order and once again when the contempt came up for hearing on 20.10.2021, this Court passed the following order:

“2. Denying monetary benefit at least from 2000 is not warranted. The learned Government Advocate appearing for the respondents, however, submitted that an opportunity may be given to correct the mistake.



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3. Therefore, post this matter next week for filing fresh affidavit and passing an order in tune with the direction of this Court in its letter and spirit.”

2.8 Even thereafter, the contempt petition remained pending and the order remained un-complied and therefore, the learned Single Judge by an order dated 19.07.2023 passed the following order.

“In compliance of the statutory notice issued, Respondents No.1 to 3 are present before this Court.

2. Learned counsel appearing for Respondents No.1 to 3 sought time till 24.07.2023 to comply with the order.

3. The appearance of Respondents No.1 to 3 present before this Court is dispensed with.”

2.9 It is only thereafter, vide G.O.Ms.No.92, dated 20.07.2023 the orders were passed granting the financial benefits with effect from 27.01.2000 till 29.06.2006. The relevant portion of the Government order reads as hereunder:

“4.மேலே பத்தி 6 - ல் மாநிலக் கல்வியியல் ஆராய்ச்சி மற்றும் பயிற்சி நிறுவன இயக்குநரின் கருத்துருவை கவனமுடன் பரிசீலனை செய்த அரசு அதனை ஏற்று, திருநெல்வேலி மாவட்டம், பழையப்பேட்டை ஊழியஸ்தானம் அரசு உதவி பெறும் ஆசிரியர் பயிற்சி நிறுவனத்தில் சில்லரைச் செலவின பணியிடத்தில் துப்புரவாளர் மற்றும் தோட்டக்காரராக பணிபுரிந்து ஓய்வு பெற்ற திரு.பி.ஞானப்பிரகாசம் என்பாருக்கு 27.01.2000 முதல் 29.06.2006 வரை பணப்பலன் பெற்று வழங்கலாம் என ஆணையிடுகிறது. இவ்வரசாணை அம்மனதாரருக்கு மட்டுமே பொருந்தும் என்பதால் மற்றவர்கள் இதனை முன்றிகழ்வாக கருதக் கூடாது எனவும் அரசு ஆணையிடுகிறது.”



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2.10 Thereafter, on 28.07.2023 a sum of Rs.1,38,483/- was calculated and credited to the account of the first respondent, the retired Sweeper-cum-Gardener.

C. The Orders in the Contempt Petition:

3. It is in this context, the learned Single Judge took up the matter for hearing on 31.07.2023 found that the fourth respondent in the contempt petition, namely, the Correspondent of the Private Teacher Training Institute did not commit any contempt and dismissed the contempt petition as against the fourth respondent and posted the matter for further hearing in respect of the others. It is at this stage, the appellants had filed an affidavit before the learned Single Judge tendering an apology while at the same time justifying their conduct that they did not commit any willful disobedience of the order of this Court.

3.1 After considering the said affidavit, the learned Single Judge found that the appellant in CONT.A(MD)No.8 of 2023, namely, Pradeep Yadav had served as the Principal Secretary to Government, School Education Department from 26.08.2017 to 09.02.2020. Thereafter, he was transferred to some other department. Therefore, held that it was his responsibility to implement the order after the writ



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appeal was dismissed on 05.08.2019. The learned Single Judge further found that even as against the *prima facie* observation of the Court dated 20.10.2021, a contempt appeal was filed and only after the dismissal of the said contempt appeal on 18.07.2023 and only after issuance of statutory notice on 05.07.2023, the modified order was issued complying the directions in the writ petition.

3.2 Therefore, the learned Single Judge was of the opinion that the appellants did not deserve any leniency and that their apology cannot be accepted and found them guilty of the contempt and imposed the punishment by his judgment dated 02.08.2023. Aggrieved by which, these appeals are filed. Upon the appeals being moved, this Court had earlier suspended the sentence pending disposal of the contempt appeals.

D. The Submissions:

4. Today when the appeals were taken up for final hearing, *Mr.Veerakathiravan*, the learned Additional Advocate General while not disputing the above facts, would only pray before this Court that for every delay in compliance, this Court need not exercise its power of contempt by punishing the concerned officials but in appropriate cases, unconditional apology tendered by the officials can also be



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accepted. He would submit that in these cases, the delay occurred only on account of the writ appeal. He would submit that the appellants, therefore, before the learned Single Judge as well as before this Court, have filed affidavit tendering unconditional apology.

4.1 He would further submit that the present case may be a fit case for accepting the unconditional apology given the fact that after the writ appeal in W.A.(MD)No.1147 of 2013 was dismissed on 05.08.2019, the appellant in CONT.A(MD)No.8 of 2013, namely, Pradeep Yadav remained as the Principal Secretary to Government, School Education Department only upto 09.02.2020 and thereafter, was transferred to some other post. Similarly, after the appeal was dismissed, the first appellant in CONT.A(MD)No.9 of 2013, namely, Muthupalanichamy was transferred from the post on 02.12.2019 and the second appellant had received a legal opinion to file a review petition.

4.2 The learned Additional Advocate General would submit that the appellants thus cannot be the sole reason for the delay in compliance and therefore, in the present facts and circumstances of the case, this Court may take a lenient view against them.



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4.3 The learned Additional Advocate General would also submit that the apology is not for the sake of it and is also now made with a further undertaking of the Government to pay interest at the rate of 6% p.a., on the benefits paid to the first respondent from the date of dismissal of the appeal ie., from 05.08.2019 till date of disbursal of the amount i.e., from 28.07.2023 with liberty to the Government in its discretion to recover the said sum that is paid as interest from all or any of the officers concerned who served during the entire period of delay.

4.4 *Mr.K.Ragatheeshkumar*, the learned counsel appearing on behalf of the first respondent in both the appeals would submit that the ordeal undergone by the first respondent in this case was a grave. After putting in 41 years and six months of yeomen service of being a Sweeper and Gardener of a school, by receiving only paltry pay, has been in the corridors of this Court from the year 2000 and it took a monumental effort for him to realise the sum of Rs.1,38,486/- after 23 years of protracted legal journey. Only after considering the extraordinary circumstances of this case, the punishment has been imposed. The learned counsel, however would submit that the first respondent would very well be interested in receiving the interest on belated payment as that would at least vindicate his position.



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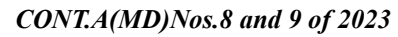
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E. The Discussion & Findings:

5. We have considered the above submissions made on either side and perused the material records of the case.

5.1 The undisputed facts are extracted in detail *supra*. On a perusal of the above, it can be seen that how an order of this Court which is on a very clear and categorical terms to regularise the services of the first respondent with effect from 01.04.1979 on par with the similarly placed persons with all attendant monetary benefits is complied with only after a period of 11 years from the date of order and four years after the dismissal of the appeal. Therefore, no exception whatsoever can be taken in respect of the various findings regarding disobedience arrived at by the Learned Single Judge.

5.2 A reading the affidavit filed by the appellants in their support would demonstrate as to how they seek the the empathy of this Court in pleading as to what happened after the orders of this Court and how they have been transferred to other post and how the administrative delay etc., occurred and thus requiring to see things from their perspectives. If only they had shown the same empathy and seen things from the perspective of the first respondent herein who



5.3 Be that as it may, with regard to the rejection of the additional apology tendered by the appellants, we are unable to reach the conclusion of the learned Single Judge for the following reasons. Firstly, we find all the three appellants have tendered additional apology. Secondly the apology is accompanied with five acts purging the contempt. That is, an order is passed in Ms.No.92, dated 20.07.2023 extending the monetary benefits as ordered by the order of the learned Single Judge as in the case of the similarly placed persons. Secondly, on 28.07.2023, the actual sum being a sum of Rs.1,38,486/- is calculated and paid. Thirdly now before this Court, the learned Additional Advocate General had undertaken to forthwith calculate and pay interest on the belated payment of the said sum of Rs.1,38,486/- at the rate of 6% p.a., from the date of dismissal of W.A(MD)No.1147 of 2013 ie., from 05.08.2019 to the date of payment on 28.07.2023.



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5.4 More importantly this Court exercises the power of punishing the contemnors primarily with a sole aim of preserving the majesty of law and to maintain the sanctity and authority of the Orders of the Court. Considering the facts of instant case and that the cause of the administration of justice would be better served by the solemn act of forgiving and trusting that the graciousness of the Court would sow a better sense of empathy and promptness on every official involved in the compliance of the orders of this Court, we are inclined to accept the unconditional apology. We also take into account that the appellant officials were also not in office during the entire period of delay and that non-compliance was more due to the systemic apathy rather than any individual defiance of the Order.

F. The Result:

6. In the result, these contempt appeals are partly allowed and are disposed of on the following terms:

(i) The unconditional apology tendered by the appellants is accepted;

(ii) The sentence of imprisonment and fine imposed vide order dated 02.08.2023 in CONT.P(MD)No.374 of 2020 is set aside;

(iii) The undertaking of payment of interest at the rate of 6%



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p.a., on Rs.1,38,486/- from 05.08.2019 till 28.07.2023 forthwith on receipt of the copy of this order is recorded;

(iv) No costs;

(v) Consequently, connected miscellaneous petitions are closed.

(S.S.S.R.,J.) (D.B.C.,J)

25.09.2023

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NCC : Yes / No

Index:Yes/No

Index:Yes/No

Note : It can be seen in this case, when no ground existed for review, an opinion was rendered to file a review and ultimately it was not filed. When an observation was made that the Order passed was prima facie contemptuous, a contempt appeal is filed, when there is no punishment so as to maintain an appeal under section 19 of the Contempt of Courts Act and when there is no 'judgment' determining the rights of parties even to maintain an appeal under clause 15 of the letters patent. Hence, a copy of this order shall be marked to the Learned Advocate General for his consideration.



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AND
D.BHARATHA CHAKRAVARTHY,J.

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To

- 1.Pradeeph Yadav, I.A.S.,
The Secretary,
to the State of Tamil Nadu,
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