



Cont.P.(MD)No.29 of 2023
and
Rev.Aplw(MD)No.71 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Order Reserved On	Order Pronounced On
20.04.2023	.2023

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

Cont.P.(MD)No.29 of 2023
and
Rev.Aplw(MD)No.71 of 2023

Cont.P.(MD)No.29 of 2023:

C.Sukumaran

...Petitioner

Vs.

Mr.T.S.Jawahar, I.A.S.,
Secretary to Government,
Government of Tamil Nadu,
Animal Husbandry Department,
Fort St. George,
Chennai – 600 009.

...Respondent

PRAYER: Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971, to summon the contemnor / first respondent and punish him for willful disobedience of the orders of this Court made in W.P.(MD)No.8259 of 2012 dated



Cont.P.(MD)No.29 of 2023
and
Rev.Aplw(MD)No.71 of 2023

20.06.2012.

For Petitioner : Mr.S.Bharathy Kannan
For Respondents : Mr.Veera Kathiravan
Additional Advocate General
assisted by Mr.R.Suresh Kumar
Additional Government Pleader

Rev.Aplw.(MD)No.71 of 2023:

- 1.The State of Tamil Nadu,
Rep. By its Secretary to Government,
Animal Husbandry Department,
Fort St. George, Chennai – 600 009.
- 2.The Director,
Animal Husbandry Department,
Teynampet, Chennai – 600 005.
- 3.The Joint Director,
Animal Husbandry Department,
Nagercoil,
Kanyakumari District – 629 101.

...Review Petitioners

Vs.



WEB COPY



Cont.P.(MD)No.29 of 2023
and
Rev.Aplw(MD)No.71 of 2023

C.Sukumaran

...Respondent

PRAYER: Review Petition filed under Order 47 Rule 1 & 2 r/w Section 114 of CPC, to review the order passed by this Court in W.P.(MD)No.8259 of 2012 dated 20.06.2012 and dismiss the writ petition.

For Petitioners : Mr.Veera Kathiravan
Additional Advocate General
assisted by Mr.R.Suresh Kumar
Additional Government Pleader

For Respondent : Mr.S.Bharathy Kannan

COMMON ORDER

The contempt petition has been filed alleging disobedience of the order passed by this Court in W.P.(MD)No.8259 of 2012 dated 20.06.2012.

2. The petitioner in Cont.P.(MD)No.29 of 2023, who is the respondent in condone delay application filed in W.M.P.(MD)No.3021 of 2023 and the Rev.Aplw.(MD)No.71 of 2023, is hereinafter referred to as 'petitioner' for the sake



WEB COPY



Cont.P.(MD)No.29 of 2023
and
Rev.Aplw(MD)No.71 of 2023

of clarity. The respondent in Cont.P.(MD)No.29 of 2023, and the petitioners in W.M.P.(MD)No.3021 of 2023 and Review Applicants in Rev.Aplw.(MD)No.71 of 2023 are hereinafter commonly referred to as 'respondents' for the sake of clarity.

3. The writ petition in W.P.(MD)No.8259 of 2012 has been filed for Writ of Mandamus, directing the respondents to regularize the service of the petitioner as 'Full Time Artificial Inseminator (Seyarkai Murai Karuvoottalar)' on completion of ten years of part time service from 29.06.1990 and to pay time scale of pay and other monetary benefits payable from 29.06.2000, within a stipulated period.

4. The brief facts as stated by the petitioner are that the petitioner was appointed as 'Artificial Inseminator (Seyarkai Murai Karuvoottalar)' in Government Veterinary Artificial Insemination Centre, Manjalmoodu, Kanyakumari District on 29.06.1990 by the Joint Director of Animal Husbandry Department, Nagercoil, who was the third respondent in the writ petition. The



WEB COPY



Cont.P.(MD)No.29 of 2023
and
Rev.Aplw(MD)No.71 of 2023

contention of the petitioner is that he was working in the said post for more than ten years. The government issued G.O.Ms.No.22, Personnel and Administrative Reforms (P) Department, dated 28.02.2006 to regularize the service of the employees, who have rendered service for more than ten years. Hence the petitioner submitted a representation dated 02.01.2012 seeking regularization of his service, but the respondents had not taken any steps to regularize the service. Hence, the petitioner filed the writ petition in W.P.(MD)No.8259 of 2012 and this Court vide order dated 20.06.2012, has held that similar issues were considered by this Court in W.P.(MD)No.11707 of 2006 on 22.12.2006 and the same was confirmed in W.A.(MD)No.391 of 2007 on 25.10.2007 and the said order was implemented on 30.11.2007. In another writ petition in W.P.(MD)No.18126 of 2008 on 29.07.2008, which was confirmed in W.A.(MD)No.230 of 2009 on 03.08.2009 and the said order was also implemented. Infact, the Government, aggrieved over the judgment passed in W.A.(MD)No.230 of 2009, dated 03.08.2009, preferred a Special Leave Petition in SLP No.1972 of 2009 and the same was also dismissed in the month of March, 2010. The similar issue was



WEB COPY



Cont.P.(MD)No.29 of 2023
and
Rev.Aplw(MD)No.71 of 2023

considered by this Court in another writ petition in W.P.(MD)No.13499 of 2008 on 12.06.2008, which was also confirmed in M.P.(MD)No.1 of 2008 in W.A. (MD)No.SR75291 of 2009 on 07.10.2009 directing the respondents therein to grant regularization of the petitioner's service on his completion of ten years, following the earlier orders passed in similar writ petitions and writ appeals.

5. In the present writ petition, this Court directed the first respondent therein to pass regularization order and grant regularization of the petitioner's service on his completion of ten years and also to pay arrears of salary, pursuant to such regularization within a period of four weeks therefrom. This order was not implemented and hence, the petitioner filed this contempt petition in Cont.P. (MD)No.29 of 2023.

6. Before numbering the contempt petition, Registry raised objections, since the contempt petition has been filed beyond the period of limitation prescribed under Section 20 of the Contempt of Courts Act, 1971 and also raised



WEB COPY



Cont.P.(MD)No.29 of 2023
and
Rev.Aplw(MD)No.71 of 2023

certain defects in the contempt petition. In the meanwhile, another learned Single Judge, has passed an order that the Registry is not having power to raise limitation and has directed the registry to number all the contempt petitions. Hence, the present contempt petition has also been numbered and placed before this Court.

7. The respondents in the writ petition have filed a Review Application against the order passed in W.P.(MD)No.8259 of 2012 dated 20.06.2012 along with condone delay application in W.M.P.(MD)No.3021 of 2023 to condone the delay of 3145 days in filing the review application. The contention of the respondents is that the petitioner has never ever worked for a single day as an employee either as part time or on temporary basis or on consolidated pay. The petitioner has falsely alleged that he was working as Artificial Inseminator (Seyarkai Murai Karuvoottalar)' in Government Veterinary Artificial Insemination Centre, on daily wage basis from 29.06.1990 to 10.06.2012. The Department has not even paid a single rupee to the petitioner as an employee and also raised



WEB COPY



Cont.P.(MD)No.29 of 2023
and
Rev.Aplw(MD)No.71 of 2023

various grounds. Hence, the respondents had filed a Review Petition with the application to condone the delay of 3145 days in filing the same.

8. The petitioner filed a counter affidavit in the delay application stating that the respondents have not explained the delay committed for each and every day. Moreover, the present review petition has been filed, only after the contempt petition was numbered. The respondents have made some mechanical submissions without any merits and without explaining the delay caused in filing the review application.

9. In the counter affidavit filed by the respondent in contempt petition, it is stated that after the order was passed in the writ petition, the respondents in the writ petition preferred a writ appeal with a delay of 749 days in M.P.(MD)No.1 of 2015 in W.A.(MD)No.SR40650 of 2014 and the same was dismissed on 20.04.2017. Aggrieved over the same, the respondents preferred a review application with a delay of 229 days in C.M.P.(MD)No.1486 of 2018 in Rev.Aplc.



WEB COPY



Cont.P.(MD)No.29 of 2023
and
Rev.Aplw(MD)No.71 of 2023

(MD)No.SR5419 of 2018 and the same was also dismissed on 06.12.2021. Both the writ appeal and the review application were not considered on merits. Aggrieved over the same, the respondents preferred a Special Leave Petition in SLP(Civil) Diary No.9790 of 2022 and the same was also dismissed on the ground of delay on 10.10.2022. Thereafter, the petitioner had preferred this contempt petition, which was filed on 08.09.2022 and the Review Application was filed with the delay on 13.02.2023. In this background, both the contempt petition and the Review Application ought to be considered.

10. Heard Mr.S.Bharathy Kannan, the learned counsel appearing for the petitioner and Mr.Veera Kathiravan, Additional Advocate General assisted by Mr.R.Suresh Kumar, Additional Government Pleader appearing for the respondents and perused the materials placed before this Court.

11. The contention of the respondents is that the writ petition was allowed



Cont.P.(MD)No.29 of 2023
and
Rev.Aplw(MD)No.71 of 2023

at the admission stage itself. On perusing the order dated 20.06.2012, this Court has recorded that the writ petition is disposed at the admission stage itself and the relevant portion is extracted hereunder:

“Heard the learned counsel appearing for the petitioner and Mr.M.Alagathevan, learned Special Government Pleader, who takes notice on behalf of the respondents. By consent, the Writ Petition is taken up for final disposal at the stage of admission itself.”

Therefore, it is an admitted case that the respondents were not granted any opportunity to put forth the facts before this Court. Therefore, this Court is of the considered opinion the respondents ought to be heard even though the review is filed with huge delay.

12. The petitioner stated that his educational qualification is 10th standard and he was sponsored by the District Employment Office, Kanyakumari District at Nagercoil for the Artificial Inseminator Training and he has completed the said training from 15.11.1989 to 14.12.1989 conducted by the third respondent.



WEB COPY

Cont.P.(MD)No.29 of 2023
and
Rev.Aplw(MD)No.71 of 2023

Thereafter the petitioner has stated in the affidavit that he was appointed as 'Artificial Inseminator (Seyarkai Murai Karuvoottalar)' in Government Veterinary Artificial Insemination Centre on 29.06.1990 by the third respondent and at the time of appointment, his salary was fixed as Rs.5/- per day. The relevant portion of his affidavit is extracted hereunder:

“2. I state that I was appointed as 'Artificial Inseminator (Seyarkai Murai Karuvoottalar)' in Government Veterinary Artificial Insemination Centre, Manjalmoodu, Kanyakumari District on 29.06.1990 by the 3rd Respondent herein. My educational qualification is 10th standard pass and I was sponsored by the District Employment Office, Kanyakumari District at Nagercoil. Moreover, I have completed Artificial Inseminator Training from 15.11.1989 to 14.12.1989 conducted by the 3rd Respondent. At the time of appointment my salary was fixed as Rs.5/- per day.”

13. On perusing the typed set, it is seen that the writ petitioner has not filed the copy of the appointment order. This Court specifically directed the Learned Counsel appearing for the petitioner to produce the appointment order and posted the case for next hearing. The petitioner has not produced the same, but the writ petitioner is relying on a Resolution passed by the Manjalmoodu Village



Cont.P.(MD)No.29 of 2023
and
Rev.Aplw(MD)No.71 of 2023

Panchayat and the Resolution No.79 of 1990 dated 28.12.1990 reads as under:

“மஞ்சாலுமுடு ஊராட்சி கூட்ட தீர்மானம் நாள்:28/12/1990
பொருள்:79/90 தீர்மானம்:79/90

குமரி மாவட்டத்தில் வளவன்கோடு வட்டத்தில் மேல்புறம் ஊராட்சி ஒன்றியத்தில் உள்பட்ட மஞ்சாலுமுடு ஊராட்சியில் இயங்கி வரும் கால்நடை துணைசார கருவூட்ட நிலையம் இயங்கி வருகிறது. இந்நிலையத்தில் பணியாற்றி வரும் திரு.கருமாரன் த/பெ செல்லப்பன் பிள்ளை அவர்களை கால்நடை பராமரிப்பு துறையால் நியமனம் செய்யப்பட்டு பணியாற்றி வருகிறார். மேற்படி நிலையத்தில் கருவூட்டல் கட்டணம் ரூபாய் 10/- (பத்து) வசூலிக்கப்படுகிறது அரசு கால்நடை மருத்துவமனைகளில் பால் விநியோக கூட்டுறவு சங்கங்களில் 5 ரூபாய் 3 ரூபாய் என்ற நிரக்கில் கருவூட்டலுக்கு கட்டணம் வசூலிக்கப்படுகிறது. மேற்படி ஊராட்சியில் மஞ்சாலுமுட்டில் இயங்கிவரும் கால்நடை கருவூட்டல் நிலையத்தில் 10/- (பத்து ரூபாய்) கட்டணம் வசூலிப்பதை ரத்து செய்து 3 ரூபாய் நிலையத்தில் பணியாற்றி வரும் பணியாளருக்கு கால்நடை துறையிலிருந்து ஊதியம் கொடுத்து மேற்படி நிலையத்தை நிரந்தரமாக செயல்பட செய்யும்படி இயக்குனர் கால்நடை பராமரிப்புதுறை சென்னை அவர்களையும் டெல்லை மாவட்டம் கொக்குரகனம் கால்நடை பராமரிப்புதுறை இயக்குனர் அவர்களையும் குமரி மாவட்ட ஆட்சி தலைவர் அவர்களையும் கேட்டு தீர்மானித்து ஏகமனதாக தீர்மானிக்கப்பட்டது.”

In the said Resolution, it is stated that the petitioner was appointed in the Government Veterinary Artificial Insemination Centre. This Court is of the



Cont.P.(MD)No.29 of 2023
and
Rev.Aplw(MD)No.71 of 2023

considered opinion that the Panchayat Council resolution cannot be taken as an evidence to prove that the petitioner was appointed in the said post. Simply because the panchayat had passed resolution, the petitioner will not have any right to claim employment. Even if it is taken that the resolution is passed, then in consequences thereof the Executive Officer of the Panchayat ought to have issued appointment order. The petitioner has not produced any appointment order issued by the appropriate authority.

14. On the contrary the contention of the respondents is that the petitioner was never ever appointed at any point of time as an employee of the respondent and they relied on the certificate dated 14.12.1989 issued to the petitioner, which reads as under:

“

சான்றிதழ்

இந்நிலையத்திற்கு பயிற்சி பெற அனுப்பி வைக்கப்பட்ட துறை
சாரா கருவூட்டாளர் திரு.ச.சுகுமாரன் நாயர், த/பெ.செல்லப்பன்
பிள்ளை, பிறாகல், தானத்து வீடு, மஞ்சாலமுகுடு 22.11.89 முதல்



Cont.P.(MD)No.29 of 2023
and
Rev.Aplw(MD)No.71 of 2023

14.12.89 முடிய உறைவிந்து தொழில் நுட்ப முறையின் கீழ் செயற்கை முறை கருவூட்டல்கள் குறித்த நேரடிப் பயிற்சி பெற்றுள்ளார் என்றும் எடுத்துக் கொள்ளப்பட்ட நோக்கினை நிறைவு செய்யும் வகையில் மேற்படி பயிற்சியாளருக்கு அனைத்து அடிப்படை ஆதார பயிற்சிகளையும் சிறப்பாக அளிக்கப்பட்டுள்ளன என்றும் அவர் பயிற்சி காலத்தில் எந்த ஒரு நாளும் வராமல் இருக்கவில்லை என்றும் இதன் வழி சான்றிடப்படுகின்றது.”

The certificate only certifies that the petitioner has attended the training. It further certifies that the petitioner without taking any leave has completed the training. Therefore, this Court is of the considered opinion that the petitioner has attended only training and the same cannot be construed the petitioner was appointed in any post.

15. The respondents further submitted that the petitioner's name was called for from the District Employment Office for the said training. Thereafter during the training period, the petitioner's name was removed from the Live Register. After completion of the training, it was reported to the District Employment Office that the training was completed. Thereafter, the petitioner's name was



Cont.P.(MD)No.29 of 2023
and
Rev.Aplw(MD)No.71 of 2023

removed from the “Dead Register” and brought back into the Live Register again.

This is evident from the communication from the District Employment Exchange Office dated 02.01.1990, which is extracted hereunder:

“தங்கள் பெயர் இவ்வலுவலகத்தில் 30.5.83 அன்று 3451/83 என்ற பதிவேண்ணின் கழ் எக்ஸ் 02.10 என்ற தொழில் இலக்கத்தில் பொதுவான பணிக்காக பதிவு செய்யப்பட்டுள்ளது. தங்கள் கல்வித் தகுதியோத்த மனுதாரர்கள் ஏவலர்/காவலர் பணியிடங்களுக்கு 6.10.77 வரையிலும் பதிவு செய்துள்ள மனுதாரர்கள் பரிந்துரைக்கப்பட்டு வருகின்றனர். தங்களுக்கு இவ்வலுவலகம் மூலம் வேலையளிப்போருக்கு பரிந்துரை செய்யப்பட்டு செப்டம்பர் 1989 முதல் கால்நடை பராமரிப்பு துணை இயக்குநர், நாகர்கோயிலில் தினக்கூலியில் பணிபுரிந்து வருவதாக தங்கள் பதிவாட்டை இறப்பும் பதிவேட்டிற்கு மாற்றப்பட்டு நகல் பதிவாட்டை உயிர்ப் பதிவேட்டில்.....”

From the above it would be evident that the petitioner was not appointed by the respondents, but only imparted training to the petitioner. Therefore, this Court is of the considered opinion that the petitioner was never appointed by the respondents as an employee.



WEB COPY



Cont.P.(MD)No.29 of 2023
and
Rev.Aplw(MD)No.71 of 2023

16. The petitioner also produced a Register maintained by him, where the petitioner has received money from the owner of the cattle for carrying on the work of artificial insemination to the cattle. This Register is maintained from 1989 onwards, wherein the petitioner has recorded the name of the owner of the cattle, owner's address, short description of the cattle, number of cattle and the amount received from the owner of the cattle. For example, on 09.07.1990, one Kunjikan Panikka, Muthappan Code, Angucode Post is the owner of cattle and the category is mentioned as 'Karuppu Vellai' and the petitioner has received amount of Rs.5/- from the said Kunjikan Panikka. Likewise, in all the entries, the petitioner has mentioned the name of the person, address, the owner of the cattle, number of cattle and whether the Insemination has resulted in pregnancy or not. The entry specifically mentions the amount received from the owner for carrying on the artificial insemination. On perusing the register, it is seen that the petitioner has received the amount from the cattle owner. The petitioner has not produced any evidence to substantiate that he had received salary / wages from the respondents. Therefore, this Court is of the considered opinion that the



Cont.P.(MD)No.29 of 2023
and
Rev.Aplw(MD)No.71 of 2023

petitioner has not received any salary from the respondents.

17. The next contention of the respondents is that the very scheme itself is to grant opportunity to the unemployed youth to motivate self-employment. The Circular dated 26.08.1989 was produced before this Court and it has clearly stated that the scheme is only for self-employment purpose and the trained persons will be in a position to earn more than Rs.30 per day and it has been categorically stated that the Government will not pay any salary or any benefits to the trained persons. Also, it is categorically mentioned in the circular that based on this training, the Government job will not be granted. With these specific conditions, the training was imparted and the petitioner is fully aware of this condition before going for training. The circular dated 26.08.1989 is extracted hereunder:

“பொருள்:— கால்நடை பராமரிப்புத்துறை – துறை சாரா
கருவூட்டு பணியாளர்கள் (Lay Inseminator) தேர்வு செய்தல் –
குறித்து.



Cont.P.(MD)No.29 of 2023
and
Rev.Aplw(MD)No.71 of 2023

பார்வை:— நாகர்கோவில் மாவட்ட வேலைவாய்ப்பு அலுவலக
கடித எண்:..... நாள்:28.7.89

+++

கால்நடை பராமரிப்புத்துறை கருவூட்டாளர்களைக் கொண்டு
கால்நடை இனப்பெருக்க முறையில் நெடுந்தொலைவில்
உள்ள இடங்களில் செயல்படுத்துவது தொடர்பாக,
கருவூட்டாளர்களாக (Lay Inseminator) தேர்வு செய்ய தங்களது
பெயர் பார்வையிற்குறித்த மாவட்ட வேலை வாய்ப்பு அலுவலக
கடிதத்தில் பெறப்பட்டதைத் தொடர்ந்து, தாங்கள் 6.9.89 தேதி
அன்று காலை 10.00 மணி அளவில் குழித்துறை கால்நடை
மருத்துவமனையில் நடைபெறும் நேர்முகத் தேர்விற்கு ஆஜராகக்
கேட்டுக் கொள்ளப்படுகிறது.

கருவூட்டாளர் (Lay Inseminator) பணி விபரம்:—

1. கருவூட்டாளர் பணி — சுயவேலைவாய்ப்புப் பணி.
2. தேர்ந்தெடுக்கப்பட்ட கருவூட்டாளருக்கு கருவூட்டல் பணியில்
ஒரு மாதம் பயிற்சி அளிக்கப்படும். பயிற்சி காலத்தில்,
பயிற்சி பெறும் நபருக்கு நாள் ஒன்றுக்கு ரூ.15 / – (ரூபாய்
பதினைந்து மட்டும்) உதவித்தொகை வழங்கப்படும்.
3. தேர்ந்தெடுக்கப்பட்ட கருவூட்டாளர்கள், பயிற்சி முடிந்தபின்
தேர்ந்தெடுக்கப்பட்ட கிராமங்களுக்கு கருவூட்டல் பணி செய்ய
தகுதியுடையவர் ஆவார்கள்.
4. கருவூட்டாளர்கள் புரியும் கருவூட்டல் மூலமாக நாளொன்றுக்கு
சுமார் ரூ.30 / – வரை சுயவேலை வாய்ப்பின் மூலம் ஊதியம்
கிடைக்க வழியாக உள்ளது. இதற்கென
அரசுத்தரப்பில் இருந்து எவ்வித ஊதியமும், பதிகளும்
வழங்கப்படமாட்டாது.
5. எட்டாம் வகுப்பு தேர்ச்சி பெற்றிருக்க வேண்டும்.
6. சைக்கிள் ஓட்டத் தெரிந்தவராக இருக்க வேண்டும்.
7. நேர்முகத் தேர்விற்கு அவர்களது சொந்த செலவிலேயே
வரவேண்டும். இது தொடர்பாக பயணப்படி ஏதும்
வழங்கப்படமாட்டாது.



Cont.P.(MD)No.29 of 2023
and
Rev.Aplw(MD)No.71 of 2023

8. இந்தப் பயிற்சி காரணமாக அரசு வேலை
கொடுக்கப்படமாட்டாது.
நேர்முகத் தேர்விற்கு வரும்பொழுது கீழ்க்காண் உண்மை
ஆவணங்கள் (Original Certificate) கொண்டு வரவேண்டும்.

1. கல்விச் சான்றிதழ்.

2. வயது குறித்த சான்றிதழ்.

3. சாதிச்சான்றிதழ்.

4. நிலமற்ற விவசாயியாகவோ குறநில
விவசாயியாகவோ இருப்பின் அதற்கான அத்தாட்சி சான்றிதழ்.

5. வறுமைக்கோட்டின் கீழ் இருக்கும் குடும்பத்தைச்
சார்ந்தவராயின் அதற்கான அத்தாட்சிச் சான்றிதழ்.”

18. Based on the Scheme Circular dated 26.08.1989, to implement the scheme and to impart training, the respondents have selected the persons through the proceedings dated 13.11.1989 and the petitioner was in Serial No.9 and the petitioner has attended the training from 15.11.1989 to 21.11.1989 and 22.11.1989 to 14.12.1989. From this, it is evident that the petitioner has attended the training and he was fully aware that it is only training for self-employment. Also, the petitioner is fully aware that the it is not even temporary employment or



WEB COPY



Cont.P.(MD)No.29 of 2023
and
Rev.Aplw(MD)No.71 of 2023

consolidated pay employment and the government will not pay any salary. But the petitioner has filed an affidavit before this Court that the respondents have granted part time employment, which amounts to perjury. This fact of false affidavit was not brought to the knowledge of the writ Court while passing the order and unfortunately the writ Court has allowed writ petition.

19. Infact, the respondents were not granted any opportunity to put this factual matrix before the writ Court since the writ petition was disposed of at the admission stage. On appeal before the Hon'ble Division Bench, the petition was dismissed on delay. The Review application was dismissed on delay. The Special Leave Petition was also dismissed only on the ground of delay. Which means the issue raised in the writ petition was not contested on merits. Therefore, applying the principle laid down in **Kunhayammed & Others vs State Of Kerala & Another** reported in **2000 (6) SCC 359**, the present Review Application is maintainable and since the order in SLP is not passed on merits by the Hon'ble



Cont.P.(MD)No.29 of 2023
and
Rev.Aplw(MD)No.71 of 2023

Supreme Court, since the Special Leave Petition is dismissed only on delay.

20. In the present case, while hearing writ petition, the respondents were not granted any opportunity. In the writ appeal, it was dismissed only on delay and not on merits. The review application, which was filed against the dismissal order in delay application, was also dismissed on the ground of delay only. The respondents were not allowed to contest the case on merits before any Courts. Therefore, this Court is of the considered view that serious prejudice has caused to the respondents. Therefore, this Court is inclined to entertain the Review Application. Moreover, the petitioner has committed perjury. This Court is inclined to take separate proceedings for perjury committed by the petitioner. However, the petitioner being an unemployed youth at the time of filing the writ petition, this Court is pardoning him. This Court hopes that in future the petitioner would not indulge in filing false affidavits.

21. The petitioner has undergone training for self-employment only and the



WEB COPY



Cont.P.(MD)No.29 of 2023
and
Rev.Aplw(MD)No.71 of 2023

petitioner was very much aware that he was never ever appointed in any government post and has not received any salary from the respondents for each insemination. He has received money from the owner of the cattle and not even a single penny from the respondents. When the petitioner was not even employed by the respondents, the petitioner can never claim for regularization.

22. The respondents submitted that the writ appeal was filed with a delay of two years. While the petitioner sought to implement the order of the writ court then only the respondents came to understand that an order is passed behind their back without granting an opportunity. If the order passed in the writ petition is implemented then the government ought to have paid backwages, when the petitioner was never even engaged for any employment. Therefore after obtaining permission from the government the writ appeal was filed with delay of two years. Then the government again tried their luck by filing review application and then SLP, but all the petitions were dismissed on delay only. Since the petitioner has committed fraud on the Court, the government took earnest effort to bring the



WEB COPY



Cont.P.(MD)No.29 of 2023
and
Rev.Aplw(MD)No.71 of 2023

fact before this Court. Hence the review application is filed with huge delay. Since the writ petition is filed on false affidavit and the writ petitioner has committed fraud on the Court, such fraud cannot be entertained. Moreover, the petitioner by committing such fraud is claiming arrears of salary for the period from 29.06.1990 to 10.06.2012 and for the subsequent period, which would amount to day light robbery. Hence the reasons stated in this paragraph and for the discussion and reasons stated in previous paragraphs, this Court is allowing the condone delay application which is filed with delay of 3145 days. Hence the Registry was directed to number the review application.

23. Since the petitioner has committed perjury and has played fraud on the Court, this Court is inclined to allow the review application. On merits also the review application is liable to be allowed.

24. As far as the contempt petition is concerned, the contempt petition is



WEB COPY



Cont.P.(MD)No.29 of 2023
and
Rev.Aplw(MD)No.71 of 2023

filed beyond the period of limitation and the petitioner has not stated any acceptable ground for filing the contempt petition beyond the period of limitation and the same is liable to be dismissed on this ground. Moreover, this Court is of the considered opinion that the writ petition is filed with false affidavit, hence the order passed by this Court cannot be implemented and the contempt petition is dismissed on this ground as well.

25. For the discussion and reasons stated supra, the order passed in the writ petition in W.P.(MD)No.8259 of 2012 dated 20.06.2012 is quashed and the Rev.Aplw.(MD)No.71 of 2023 is allowed. The contempt petition is dismissed. There is no order as to costs. Other connected miscellaneous petitions are closed.

NCC : Yes / No
Index : Yes / No
Sm

.2023



WEB COPY



Cont.P.(MD)No.29 of 2023
and
Rev.Aplw(MD)No.71 of 2023

To:

- 1.Mr.T.S.Jawahar, I.A.S.,
Secretary to Government,
Government of Tamil Nadu,
Animal Husbandry Department,
Fort St. George,
Chennai – 600 009.
- 2.The Secretary to Government,
Animal Husbandry Department,
Fort St. George, Chennai – 600 009.
- 3.The Director,
Animal Husbandry Department,
Teynampet, Chennai – 600 005.
- 4.The Joint Director,
Animal Husbandry Department,
Nagercoil,
Kanyakumari District – 629 101.



WEB COPY



Cont.P.(MD)No.29 of 2023
and
Rev.Aplw(MD)No.71 of 2023

S.SRIMATHY, J.

Sm

Pre-delivery Common Order made in
Cont.P.(MD)No.29 of 2023
and
Rev.Aplw(MD)No.71 of 2023

Dated
2023