



Cont.P.No.2033 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 03.07.2026

Pronounced on : 10.07.2026

CORAM:

THE HONOURABLE MR. JUSTICE T.VINOD KUMAR

Cont.P.No.2033 of 2026
in WP.No.36996 of 2015

V.K.Venkataeswaran

... Petitioner

vs

1.Dr.Atul Anand, IAS
The Secretary
Micro, Small and Medium Enterprises Department
The Government of Tamil Nadu
Fort St.George, Chennai – 9.

2.Thiru.L.Nirmal Raj, IAS
The Industrial Commissioner and Director of Industries
and Commerce,
3rd Floor, SIDCO Head Office Buildings,
Thiru.Vi.Ka., Industrial Estate,
Guindy, Chennai – 25.

... Respondents

Prayer: Contempt Petition is filed under Section 11 r/w. Section 12 of the Contempt of Courts Act, 1971 to punish the respondents for the wilful and deliberate disobedience of the order of this Court dated 30.04.2024 in WP.No.36996 of 2015.

For Petitioner : Mr.N.Subramaniyan



For Respondents : Mrs.Y.Kavitha, GA

ORDER

This contempt petition is presented under Section 11 r/w. Section 12 of the Contempt of Courts Act, 1971, (in short “Act 1971”) to punish the respondents for their willful and deliberate disobedience of the order of this Court dated 30.04.2024 in WP.No.36996 of 2015.

2. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents and perused the records.

3. Briefly put the case of the petitioner is that he had approached this Court by filing writ petition *vide* WP.No.36996 of 2015 to quash the order dated 20.05.2015 passed by the 3rd respondent, whereunder the 3rd respondent had rejected the claim of the petitioner for grant of two advance increments for acquiring Post Graduate qualification as per the policy of the Government of Tamil Nadu.



4. It is the further case of the petitioner that this Court by the order dated 30.04.2024 had allowed the writ petition and quashed the proceedings of the 3rd respondent. The petitioner further contended that this Court while quashing the proceedings of the 3rd respondent impugned in the writ petition had directed the respondents to grant two advance increments for acquiring Post Graduate qualification within a period of six weeks from the date of receipt of a copy of this order and the respondents were further directed to pay arrears to the petitioner within a period of six weeks thereafter.

5. The petitioner contended that on this Court passing the order, though the petitioner approached the respondent and submitted a representation dated 09.08.2024 for grant of advance increment and also arrears, the respondents only kept promising that the matter would be considered favourably and did not granted the benefit, as directed by this Court and thus the respondents, wilfully disobeyed the order of this Court.

6. The petitioner contended that since, the respondents continue to disobey the order of this Court which they are required to comply, the said



disobedience would amount to a continuing action of non compliance.

7. It is also contended that since, sanctioning of increment is a facet of pay fixation having a direct bearing on the petitioner's pension, the petitioner is entitled to file the present contempt petition beyond the limitation prescribed under Act, 1971. In support of the aforesaid contention reliance is placed on the decision of the Hon'ble Apex Court in *Union of India and others V. Tarsem Singh – (2008) 8 SCC 648* and decision of this Court in *Cont.P.No.2599 of 2025 dated 28.11.2025*.

8. On behalf of the respondents, it is contended that aggrieved by the order passed, in the said writ petition, the respondents preferred Writ Appeal along with condonation of delay petition, wherein notice has been ordered to the respondents; that it is for the reason of pendency of the appeal, the order of this Court could not be complied with and such action of non implementation of the order of this Court cannot be held as willful disobedience to be proceeded against the respondents, as the respondents were only perusing the right of appeal which cannot be foreclosed under the threat of contempt.



9. I have taken note of the respective contentions urged.

10. This Court passed order in WP.No.36996 of 2015 dated 30.04.2024. The present contempt petition is presented on 30.04.2026. Section 20 of Act, 1971 prescribes limitation of one year for presenting a petition for initiating contempt proceedings against the respondent / contemnor for non compliance with the orders of the Court. Thus, admittedly the presentation of the contempt petition is beyond the period of limitation of one year.

11. However, the Hon'ble Apex Court in the case of ***S.Tirupathi Rao V. M.Lingamaiah and others – 2024 (20) SCC 188*** dealing with limitation prescribed under the Contempt of Courts Act had noted that there are exception where the limitation prescribed under Act would not apply and the said exception being “continuing wrong”.

12. It is on the basis of the said exception culled out by the Hon'ble Apex Court, the petitioner claims that the present contempt petition does not attract the



limitation prescribed under Act, 1971 and as such, the respondents can be proceeded against.

13. In order to appreciate the said contention advanced on behalf of the petitioner, it is necessary to refer to the operative portion of the order by which relief has been granted to the petitioner, reading as under : -

“8. In the result, these writ petitions are allowed and the order dated 20/5/2015 passed by the third respondent in Letter No.47/Works I (1)/2015-1 is hereby quashed. The respondents are directed to grant two advance increments to the petitioners, for acquiring M.E Degree, within a period of six weeks, from the date of receipt of a copy of this order. The respondents are further directed to pay the arrears to the petitioners, within a period of six weeks, thereafter. No costs. Consequently, the connected Miscellaneous Petitions are closed.”

14. A reading of the aforesaid relief granted by this Court indicates that the said relief is in two parts, first part being a direction to the respondents to grant



two advance increments to the petitioner for acquiring post graduate qualification within a period of six weeks from the date of receipt of a copy of this order. The second part of the order relates to payment of arrears to the petitioner within a period of six weeks thereafter.

15. Though, it is contended that grant of increments as directed by this Court is a facet of pay fixation having a direct bearing on the petitioner's pension, it is to be noted that the petitioner had approached this Court and sought for grant of relief for acquiring post graduate qualification while in service. However, by the time, the writ petition came to be disposed of by this Court, the petitioner had retired from service on attaining the age of superannuation and he is now in receipt of pension.

16. Thus, the grant of increment sought for by the petitioner while in service, though could be considered as facet of pay fixation as the payment of salary being month on month basis, constituting a continuing wrong, the petitioner having now retired from service, even before this Court passing the order on 30.04.2024, the petitioner cannot claim that non granting of two advance increments for having post graduate qualification would have on effect on his pay



fixation, as the petitioner is not in receipt of salary but is receiving pension, which is fixed on the basis of last drawn pay.

17. The Hon'ble Apex Court in the case of ***S.Tirupathi Rao*** (*cited supra*) while culling out exception for continuing wrong had also observed that the Court should be vigilant in entertaining the stale claims of contempt, camouflaged as a continuing wrong / breach / offence ought not be entertained, having regard to legislative intent for introducing section 20 of the Act.

18. The Hon'ble Apex Court in the said decision dealt with the aspect as to what constitutes a continuing wrong and held that when a direction is given to act within a particular time and the authority to whom such direction is issued failed to implement the direction of the High Court, the act of disobedience was complete as on that date itself. In other words, the Hon'ble Apex Court held :-

“103. the injury was not repetitive or in other words, did not arise de die in diem, but rather, it was the effect of the injury which continued till the date of first respondent presented the contempt petition□ ”



19. The Hon'ble Apex Court holding as above further held that in such case limitation to initiate action would commence on the date when the respondents act in disobedience to the order by not taking action as directed. Hence, the limitation would commence from the said date and if the action under the Act 1971 is not initiated within the limitation prescribed under Section 20 of the Act, the same would be barred by limitation.

20. Applying the decision of the Hon'ble Apex Court in the case of ***S.Tirupathi Rao*** (*cited supra*) to the facts of the present case, it is to be noted that this Court had directed the respondents to grant two advance increments to the petitioner for acquiring Post Graduate qualification within a period of six weeks from the date of receipt of a copy of the order. If the respondents failed to grant two advance increments as directed by this Court within a period of six weeks , on expiry of the said six weeks time, the act of disobedience was complete and the limitation of one year would start to run from the said date.

21. Though, it is contended by the petitioner that as the grant of two



advance increments is a facet of pay fixation, and the same having impact on his pension and thus being continuing wrong, it is to be noted that there is subtle distinction between 'on going omission' vis-a-vis 'lasting effect'. Though due to the wrongful act, may cause an injury which is completed when it is committed there is no continuing wrong, even though the damage resulting from the said act continues.

22.Though, in the facts of the present case, it is contended by the petitioner that non granting of two advance increments is a continuing wrong, as the same has an effect on the pension being received by the petitioner, as noted herein above, the injury or omission by the respondents in not granting two advance increments had taken place on expiry of six weeks time granted. Though on account of such omission, may have a lasting effect; like pension being drawn by the petitioner, after his retirement, the same cannot be considered as a continuing wrong, as pension is fixed on the last drawn pay basis and not getting the two advance increments to which the petitioner is entitled to while in service, added to the pension, being received by him, month on month basis cannot be claimed as a continuing wrong in relation to payment of pension.



23. If only, the petitioner had continued in service he would be entitled to receive the benefit of two advance increments that was directed to be granted by this Court, impacting the salary receivable by him month after month, which omission in such a case can be claimed as continuing wrong.

24. On the other hand, the pension of the petitioner having been fixed on the basis of the last drawn salary, the non grant of increments can only be considered as a consequences or result of disobedience that had taken place on expiry of the time prescribed by this Court.

25. Similarly, insofar as payment of arrears is concerned, this Court had directed the respondents to grant the same, within a further period of six weeks, after the payment of two advance increments to the petitioner.

26. The petitioner having not been granted the benefit of two advance increments, atleast on expiry of time period prescribed by this Court should have been diligent in pursuing his remedy by approaching this Court to initiate action to punish the respondents for committing contempt, for this Court to take note of the



said Act by issuing notice. Unfortunately, the petitioner was not diligent in pursuing his remedy. It is settled position of law, that the Court would come to rescue the diligent and not indolent.

27. In relation to the claims for arrears, the Apex Court in the decision of *Tarsem Singh* (cited *supra*) relied on by the petitioner itself held that the principles relating to recurring and successive wrong will apply and the Court will be justified in restricting the consequential relief relating to arrears normally to the period of three years prior to the date of filing of the writ petition.

28. Applying the said principle, limitation prescribed for initiation of contempt, the claim of the petitioner for arrears would have to be treated as barred by limitation prescribed under Section 20 of the Act.

29. Further, the Court should also not lose the cite of the fact that though the petitioner claims of the respondent having wilfully disobeyed the order of this Court, since, the respondents claim of having availed the further remedy of appeal, though with a delay and the Hon'ble Division Bench of this Court having ordered notice to the respondents on the said petition, the order of this Court dated



30.04.2024 cannot be said as having attained finality, for this Court to proceed against the respondents by initiating action under Act 1971.

30. The Hon'ble Supreme Court in the case of ***Mahendra Dev V. Rahe Shyam Pandey – SLP(Civil).No.2713 of 2025 dated 03.02.2025*** had observed that litigant remedy of appeal cannot be allowed to be frustrated under threat of contempt proceedings.

31. However, judicial notice can be taken of the fact that the respondent / State in almost all the cases do not implement the orders of this Court, unless contempt proceedings are initiated and choose to avail the remedy of appeal, with abnormal delay, only after filing of contempt petition, a copy of which is served on the Government Pleader Officer before being filed into Registry. However, mere filing of appeal by itself cannot act stay of operation of the order. Further, such action of the respondent is contrary to the litigation policy framed by the State in the year 2013, requiring them to pursue the matter diligently, and the fact of said petitions being entertained by condoning the delay (sometime years) this Court had



not only emboldened them the said approach of the respondent / State in adopting dilatory tactics when it comes to implementing the orders of this Court, is adding to the pendency of proceedings on the file of this Court, in the form of contempt proceedings in one Court and appeal proceedings before the Division Bench, which can be better avoided, if only the respondent / State pursues their right of appeal within the time prescribed for filing appeal, to justify their claim that the reason for not implementing the order is pendency of appeal.

32. Since, in the facts of the present case, this Court having come to the conclusion that the petitioner ought to have initiated contempt on expiry of time granted by this Court on the respondents failing to act on its directions and the petitioner having failed to approach this Court within the time prescribed under Act 1971, the contempt petition is liable to be rejected.

33. The other aspect which also requires consideration of this Court is, whether on account of the claim of the respondent of availing the remedy of appeal and the said appeal filed being pending, can the non implementation of the order of this Court, be considered as willful disobedience, for this Court to proceed against



the respondents / contemnors. In this regard, it may be noted that since, the respondents are hovering under a bonafide impression of availing the remedy of appeal, even in the absence of the appellate Court not granting stay, by itself cannot be construed as respondent acting in willful disobedience to the order of this Court to initiate action, particularly, when the stay application has not been rejected and is kept pending by the Division Bench. If only the stay application is rejected by the Division Bench, one can argue as there is no legal impediment for the respondents to implement the order, subject to result of the appeal, and thus non compliance is to be considered as wilful disobedience in such circumstance.

34. Further, the proceeding initiated under the Act 1971, if proved would result in award of punishment of simple imprisonment for a term which may extend to six months or with fine of Rs.2,000/- or with both and being quasi criminal, if two views are possible, the benefit of doubt must be given to the contemnor as held by the Division Bench of this Court in the case of ***Advocate General of Tamil Nadu, Chennai V. M.Karunanidhi – 2002 (2) MLJ 821***, it is held as follows :-

“8. The contempt case can never be decided on



probabilities. Even when two views are possible, because the contempt is quasi-criminal, benefit of doubt should be given to the contemner.....”

35. Further, Rule 7 of the Contempt of Court Rules and Regulations framed by this Court prescribed that no contempt petition should be decided on probabilities. Therefore, where the non implementation of the order is on account of pendency of appeal and stay petition therein, in such circumstances, the said act cannot be held as willful act for this Court to proceed with the contempt.

36. In view of the above, the present contempt petition as filed apart from being hit by the period of limitation prescribed under Section 20 of the Act, also cannot be proceeded on account of the respondents perusing the right of appeal, pending before the Division Bench of this Court and thus non implementation of the order of this Court cannot be attributed as a willful Act.

37. Accordingly, the contempt petition is dismissed. No costs.



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Speaking order / Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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Pre-delivery order made in
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