



Sub.Appln.No.909 of 2023
in Cont.P.No.871 of 2021

WEB COPY 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

Sub.Appln.No.909 of 2023
in Cont.P.No.871 of 2021
in WP.No.6172 of 2011

M.Rathakrishnan

... Petitioner

vs

Thiru.Shambhu Kallollikar
Principal Secretary
Handlooms, Handicrafts, Textiles and
Khadi Department
Fort St.George,
Chennai – 600 009.

... Respondents

Prayer: Sub Application is filed under Section 151 of CPC to reopen Contempt
Petition No.871 of 2021 in WP.No.6172 of 2011.

For Petitioner : Mr.Radhakrishnan

For Respondents : Mr.T.Gowthaman, AAG
Assisted by Mr.C.P.Goutham, GA

ORDER



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WEB COPY This Sub Application is filed to reopen the Contempt Petition No.871 of 2021 in WP.No.6172 of 2011 which was closed on 13.12.2022.

2. Heard the learned counsel for the applicant and the learned Additional Advocate General for the respondent and perused the records.

3. The petitioner mainly contended that he had approached this Court by filing the subject Contempt Petition claiming that the respondent willfully disobeyed the order passed by this Court in WP.No.6172 of 2011 dated 27.02.2020.

4. The petitioner contended that he had approached this Court by filing WP.No.6172 of 2011 seeking for quashing of the GO.No.160 dated 24.11.2010 and GO.(2D).No.5 dated 30.03.2010 issued by the first respondent in the writ petition and to direct the respondent therein to disburse the amount withheld through the impugned order as well as all the increment which has been withheld and to further direct the respondents therein to treat the period of suspension from



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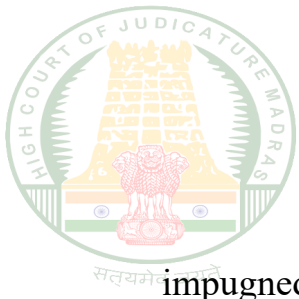
05.05.1986 to 30.06.1992 as on duty for all purposes with consequential directions
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to the respondent to disburse all the arrears accrued on the above head together with compensation for the mental agony caused to the petitioner for over a period of 25 years.

5. It is contended by the petitioner that this Court by considering the matter in detail had allowed the writ petition on 27.02.2020 by setting aside the impugned orders impugned therein vide GO.(2D).No.5 dated 30.03.2010 and GO.No.160 dated 24.11.2010 and held that the petitioner is entitled to all the monetary and attendant benefits; and that the respondent was directed to settle the dues within period of six weeks from the date of receipt of a copy of this order.

6. It is the further case of the petitioner that the respondent/State had preferred an writ appeal in WA.No.1342 of 2021, and the Division Bench of this Court vide order dated 04.03.2022 had dismissed the writ appeal, affirming the order of the learned Single Judge dated 27.02.2020.

7. The petitioner, thus contended that the order by which the GO's



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impugned in the writ petition were set aside had attained finality and that the respondent were duty bound to implement the said orders of this Court.

8. The petitioner contended that despite the order in WP.No.6172 of 2011 having attained finality on dismissal of the writ appeal, on the respondent failure to implement the said order by taking necessary action, he had approached this Court by filing contempt petition under the provisions of Contempt of Courts Act, 1971 (for short “Act, 1971); and that the said contempt petition came to be numbered as Cont.Petn.No.871 of 2021.

9. The petitioner contended that the when aforesaid contempt petition was listed for hearing, the learned Special Government Pleader appearing on behalf of the respondent submitted to the Court that the order in WP.No.6172 of 2011 has been complied with and produced the copy of the GO.(Ms).No.186, Handlooms, Handicrafts, Textiles and Khadi (G1) Department dated 02.12.2022; and that the Court noting the aforesaid G.O. and the submissions made by the learned Special Government Pleader, closed the contempt petition on 13.12.2022.



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10. The petitioner contended that though the respondents through the Special Government Pleader had informed the Court during hearing of the Contempt Petition of the respondent having complied with the order in the writ petition by issuing GO.No.186 dated 02.12.2022, a perusal of the aforesaid GO revealed that the respondent has not complied with the order in WP.No.6172 of 2011 in its entirety. As the respondent have only granted him monetary benefit on account of setting aside the GO impugned in the writ petition, but not the attendant benefits like the promotion to which he was entitled to while in service, and denied on account of initiation of proceedings by the respondent, which were ultimately quashed by this Court, there has been non compliance with the order of this Court.

11. The petitioner contended that since, the proceedings by which the respondent had initiated disciplinary action was set aside by this Court, it is incumbent on the part of the respondent to grant notional promotion to the post on the date when his immediate junior was promoted; that as the respondents did not grant the said benefit while issuing the GO., the contempt petition filed by him is required to be reopened, in order to proceed against the respondent under the Act, 1971.



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12. Contending as above, on behalf of the petitioner reliance is placed on the decision of the Hon'ble Supreme Court in the case of ***Union of India and others V. K.V.Jankiraman and others – 1991 (4) SCC 109.***

13. The respondent had filed first counter affidavit affirmed on 12.03.2024, additional counter affidavit affirmed on 12.04.2024 and another additional counter affidavit on 25.09.2024.

14. The respondent by the counter affidavit mainly contended that the order of this Court in WP.No.6172 of 2011 was complied with by the respondent by issuing GO.(Ms).No.186, Handlooms, Handicrafts, Textiles and Khadi (G1) Department dated 02.12.2022.

15. The respondent by the counter affidavit further contended that though the petitioner by his representation dated 19.12.2022 sought for grant of notional promotion as Deputy Director of Sericulture w.e.f. 24.07.1979 and Joint



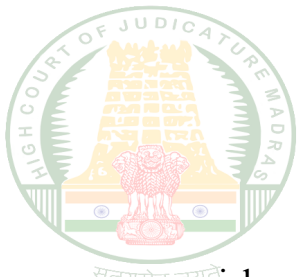
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Director of Sericulture w.e.f. 02.03.1988 and as Additional Director of Sericulture from 02.11.1996 on par with his immediate juniors along with monetary benefits and pensionary benefits, the said representation of the petitioner could not be complied with, and the reasons for non compliance has been communicated to the petitioner vide Government Letter No.3784053/G1/2022-5 dated 22.01.2024.

16. The respondent by the third counter affidavit further contended that the petitioner was excluded in the temporary panel for promotion to the post of Deputy Director of Sericulture issued vide GO.Ms.No.217 dated 27.02.1979, as a detailed enquiry report was received from the Department of Vigilance and Anti Corruption; that the same was under examination by the Government; and that the petitioner was imposed with punishment of stoppage of increment for six months with cumulative effect vide GO.Ms.No.985 Industries Department dated 24.08.1984.

17. The respondents contended that on completion of currency of the punishment, the name of the petitioner was included in the panel for the post of Deputy Director of Sericulture for the year 1985-1986 and the petitioner was promoted to the post of Deputy Director of Sericulture on 17.01.1986; and that the petitioner did not seek to challenge the punishment awarded to him and thus, the



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punishment has become absolute.

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18. The respondent further contended that based on the order of this Court dated 27.02.2000 in WP.No.6172 of 2001, as affirmed in WA.No.1342 of 2021, the Government had cancelled the punishment imposed vide GO.(2D).No.5 dated 30.03.2010 and GO.No.160 dated 24.11.2010 and regularised the period of suspension from 05.05.1986 to 30.06.1992 as on duty and issued GO.105 dated 19.07.2024 regularising his service in the post of Deputy Director of Sericulture w.e.f. 17.01.1986.

19. The respondent further contended that the respondent on regularising the petitioner's service included his name at Sl.No.6A in the seniority list for the post of Deputy Director of Sericulture above his junior namely S.Mohammed Ali and below his senior H.Hariharasubramaniam who is at Sl.No.6, in the post of Deputy Director of Sericulture.

20. The respondent further contended that serious charges were framed against the petitioner while working as Deputy Director of Sericulture and pending issuance of final orders on the disciplinary proceedings his service in the



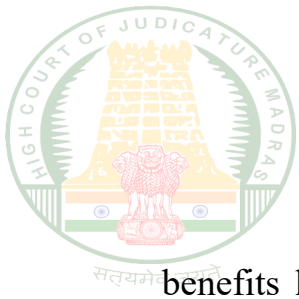
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said post of Deputy Director of Sericulture was not regularised; that insofar his inclusion of petitioner's name in the panel of promotion to the post of Deputy Director of Sericulture for the yer 1979 was concerned, the petitioner name could not be included above S.Mohammed Ali due to awarding and currency of punishment of stoppage of increment for six months with cumulative effect vide GO.985 dated 24.08.1984; thus, the petitioner become junior to the above said officer in the post of Deputy Director of Sericulture and is not entitled to claim notional promotion to the post of Deputy Director of Sericulture, Joint Director of Sericulture and Additional Director of Sericulture on par with Mohideen Basha or any other officials mentioned.

21. On the respondent filing the counter affidavit, the petitioner had filed separate rejoinder affidavits on 25.03.2024, 17.07.2025 and 28.04.2026.

22. The petitioner in the rejoinder dated 28.04.2026 claimed that he should be promoted to the post of Joint Director w.e.f. the date of his Junior S.Nagasubramanian was promoted to the said post with all consequential service



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benefits like fixation of pay, arrears of salary, arrears of leave salary, arrears of pension, arrears of DCRG, until the monetary and attendant benefits are fully extended, the respondents continues to be in contempt of order of this Court.

23. I have taken note of the respective contentions and the stand taken by them in their respective affidavits.

24. The genesis of the present dispute stems from the proceedings initiated against the petitioner in GO.(2D).No.1 dated 19.12.1996 which was subject matter of OA.No.2154 of 1996 before the Tamil Nadu Administrative Tribunal. The petitioner on being issued with charge memo dated 31.03.1986 under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules 1955 in short “Appeal Rules 1955”, submitted his explanation which was followed by an enquiry wherein the enquiry officer found the petitioner guilty of 10 out of 11 charges upon which the Government passed GO.(2D).No.1 dated 19.12.1996 imposing two penalties (i)recovery of sum of Rs.31,894.95 in 25 installments and (ii)stoppage of increment for two years without cumulative effect.



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25. The challenge to the said proceedings by the petitioner before the Administrative Tribunal was made over to this Court on abolition of the Tribunal and numbered as WP.No.13290 of 2006 and this Court by its order dated 11.12.2006 having found that the said order by which the petitioner is visited with punishment suffers from non application of mind, had set aside the said proceedings and remitted the matter back to the 1st respondent therein for reconsideration in accordance with law.

26. It is important to note that this Court while remitting the matter to the 1st respondent for denovo consideration took note of the fact that the petitioner had retired about 6 years back and thus, directed the respondents to complete the exercise of reconsideration within a period of two months from the date of receipt of or production of the copy of this order.

27. It is important to note that the petitioner while filing the OA before the Tribunal initially while in service which stood transferred to the High Court subsequently sought for the relief of quashing the GO by which he was visited with punishment / penalty and also sought for further direction to the respondents to



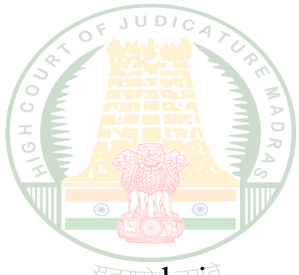
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sanction increments to the petitioner with all consequential benefits, such as promotion to the cadre of Additional Director of Sericulture which has been with held on account of the impugned punishment and disbursement of arrears of salary and other allowances.

28. The petitioner in the O.A. filed by him converted into writ petition in WP.No.13290 of 2006 described himself as Deputy Director of Sericulture. Thus, on the date when the petitioner filed OA before the Administrative Tribunal, he was holding the post of Deputy Director of Sericulture to which post he was promoted on 17.01.1986. However, it is not shown to this Court of any proceedings pending before any forum with regard to the petitioner not being granted promotion to the post of Deputy Director in the panel year of 1979, as claimed by him in the representation submitted to the respondents on 19.12.2022. Thus, the petitioner for the first time raised his claim relating to promotion to the post of Deputy Director of Sericulture in the year 1979, only in the year 2022 (i.e) after 23 years after his retirement. The petitioner also did not raise any objections for not being granted promotion to the post of Deputy Director in the year 1979, and instead being included in the panel of 1984-1985. Infact the petitioner on

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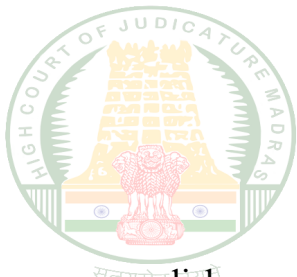


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being granted such promotion during 1986 he had joined in the promoted post on 17.01.1986. Thus, the petitioner in 2022 seeks to put the clock back by more than four decades.

29. On this Court in WP.No.13290 of 2006 setting aside the punishment order awarded to the petitioner in GO.(2D).No.1 dated 19.12.1996 in relation to disciplinary action initiated against the petitioner, which is different from the punishment of stoppage of increment for six months with cumulative effect awarded under GO.985 dated 24.08.1984, and the respondent passing the order dated 30.03.2010 in GO.(2D)No.5 and GO.No.160 dated 24.11.2010, the petitioner once again approached this Court by filing WP.No.6172 of 2011. This time, the petitioner who by then having already retired from service in the year 1999-2000 did not seek for the relief of any promotion to the next post, and had sought for an altered relief in addition to quashing of the aforesaid GO's, to direct the respondents to disburse the amount with held through the impugned order as well as increment which was with held on account of the penalty imposed prior to remand and further direct the respondents to treat the period of suspension from 06.03.1986 to 30.06.1992 as duty for all purposes and consequently direct to



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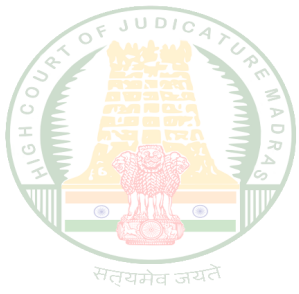
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disburse all the arrears, accrued on the above head together with compensation for the mental agony caused to the petitioner for over the period of 25 years.

30. Thus, in this writ petition the petitioner had given up his claim for promotion as sought for by him in the earlier round of litigation i.e., OA converted into writ petition.

31. It is also interesting to note that in the interregnum during the year 2006-2011, the petitioner had approached this Court once again by filing the writ petition in WP.No.19552 of 2008 wherein he had sought for quashing of all the proceedings of the 2nd respondent dated 31.03.1986 and GO.(2D).NO.33 dated 20.06.2008. The petitioner in the said writ petition in addition to seeking quashing of the said proceedings had sought to forbear the respondents in any manner proceeding further with the enquiry against him.

32. Thus, the prayer in the two writ petitions filed in 2008 and 2011 are varying with original prayer sought for by the petitioner in OA filed by him in the year 1996. The petitioner in the two subsequent writ petitions filed by him had given up his claim in relation to promotion, being aware of the fact that he had retired from service in the year 1999.



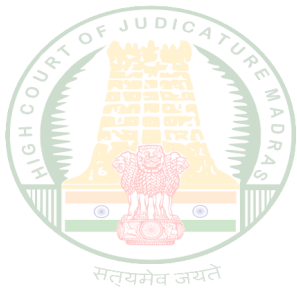
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33. The writ petition filed by the petitioner vide WP.No.6172 of 2011 assailing the proceedings dated 30.03.2010 and 24.11.2010 was disposed of by this Court on 27.02.2020, by setting aside the said proceedings had held that the petitioner is entitled to all the monetary and attendant benefits.

34. It is on the basis of this relief granted by this Court, the petitioner is seeking for being granted promotion to the post of Deputy Director of Sericulture w.e.f. 24.07.1979 and Joint Director of Sericulture w.e.f. 02.03.1988 and Additional Director of Sericulture from 02.11.1996, as claimed by him in his representation dated 19.12.2022.

35. However, as noted herein above, firstly, the petitioner was overlooked in the year 1979, when promotion to the post of Deputy Director was affected, on account of pendency of disciplinary proceedings against him, which ultimately resulted in the petitioner being awarded punishment of stoppage of increment with six months with cumulative effect vide GO.Ms.No.985 Industries Department dated 24.08.1984.

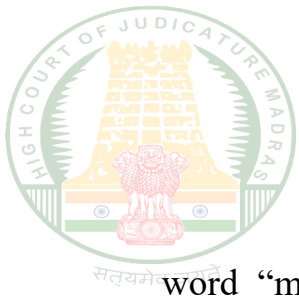


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36. As noted herein above, in the absence any challenge to the said disciplinary action, the petitioner in seeking to take advantage of the order of this Court which only dealt with subsequent disciplinary proceedings, and being set-aside. Thus, the petitioner under the guise of the said order cannot claim all the earlier proceedings being set aside at naught which proceedings attained finality, much earlier to the initiation of subsequent disciplinary proceedings, and which were never the subject matter of consideration in the writ petition. For that matter in none of the three writ petitions filed by the petitioner, the proceedings relating to the petitioner not being granted promotion in the year 1979 was subject matter of consideration and thus, the claim made by the petitioner in the year December 2022 under the guise of the order of this Court in WP.No.6172 of 2011 is clearly a mischievous and misadventurous act and required to be deprecated.

37. Insofar as the direction contained in the order of this Court in WP.No.6172 of 2011, to grant all attendant and monetary benefits is concerned, the term “attendant benefit” cannot be looked in isolation so as to be construed as something in relation to the post. The term “attendant” would get colour from the



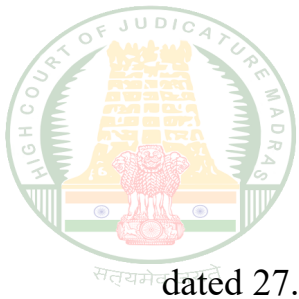
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word “monetary” with which it keeps company, by applying the Principle of *noscitur sociis*. [See – **Godfrey Phillips India Ltd and another V. State of U.P. and others – 2005 (2) SCC 515**]

38. The Hon'ble Apex Court in the case of ***V.V.G.Reddy V. APSRTC, Nizamabad Region and another – 2009 (2) SCC 668*** had considered the word term “attendant benefit” in juxtaposition to the term “attributable” and held it to be only to claim the benefit of increment notionally. If only the Court while disposing the writ petition in WP.No.6172 of 2011 had held that the petitioner is entitled to “consequential benefits” the petitioner can claim notional promotion, if otherwise eligible. Thus, the term “attendant benefit” cannot be equated to “consequential benefits” as both the terms operate in different spheres.

39. The position of law as stated by the Hon'ble Apex Court is applied to the facts of the present case the claim of the petitioner of the attendant benefit to include notional promotion to the next post i.e., Joint Director or Additional Director, when his junior Mohideen Basha was promoted or the amended claim by him in the additional rejoinder affidavit filed on 28.04.2026, seeking parity with Nagasubramaniam cannot be considered as flowing from the order of this Court



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dated 27.02.2020 in WP.No.6172 of 2011 qualifying as “attendant benefit”, for the petitioner to seek reopening of the contempt petition closed by this Court on 13.12.2022 by the present sub application.

40. Further, the claim of the petitioner for being granted notional promotion after passing of the order by this Court on 27.02.2020 also cannot be considered on account of the fact that the petitioner had retired from service in the year 1999. The Hon'ble Apex Court in the case of ***Government of West Bengal and others V. Dr.Amal Satpathi and others - 2024 SCC OnLine SC 3512***, had held that “promotion cannot be retrospectively granted after retirement, as it requires the actual assumption of duties and responsibility of the promotional post”.

41. Thus, the present sub application, the petitioner is not only seeking to enlarge the scope of contempt petition by bringing under the ambit of the order, the issue which are not covered as detailed herein above. The said action is also contrary to Section 9 of the Contempt of Court Act, 1971 and for the said reasons also the sub application is not maintainable.

42. In view of the aforesaid discussion and analysis, the sub application



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filed by the applicant seeking to reopen the closed contempt petition is devoid of merits and is liable to be dismissed.

43. Accordingly, the sub application is dismissed. No costs.

44. Though, it is a fit case for imposing cost for wasting judicial time, having regard to the fact that this Court in WP.No.13290 of 2006 speaking through his Lordship Hon'ble Mr.Justice V.Ramasubramanian (as his Lordship then was) in the year 2006 having noted the petitioner is aged about 66 years and with the addition of another two decades being of 86years this Court is refraining itself from imposing such cost on the applicant having regard to his age and being a super senior citizen, however, not without being cautioned not to venture into such adventurous acts.

10.07.2026

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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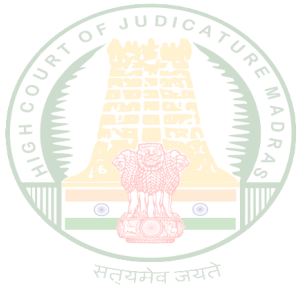
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Thiru.Shambhu Kallollikar
Principal Secretary
Handlooms, Handicrafts, Textiles and
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Fort St.George,
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Pre-delivery order made in
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10.07.2026