

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

Contempt Petition No.945 of 2015

R. Kumaresan

Petitioner

vs.

1 Mr. V. Paul Raj
Managing Director
The Tamil Nadu State Transport
Corporation Ltd. (Villupuram) Ltd.
Salamedu Valithreddy (P.O.)
Villupuram 605 602

2 Mr. K.R. Gajendran
General Manager
Tamil Nadu State Transport
Corporation Ltd.
Kanchipuram Division
Paraipert Post
Bangalore - Chennai Highway
Kanchipuram 631 552

Respondents

Contempt Petition filed under Section 11 of the
Contempt of Courts Act, 1971, seeking to punish the
respondents for committing contempt of Court by wilfully
dis-obeying the order dated 14.10.2014 passed in W.A.
No.1318 of 2014.

For petitioner Mr. J. Ravikumar

For respondents Mr. P. Paramasivadoss

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ORDER

(made by SATISH K. AGNIHOTRI, J.)

On alleged non-compliance of the order dated 14 October 2014 passed in W.A. No.1318 of 2014, the instant contempt petition has been filed by the first respondent in the writ appeal.

2 This Bench, by the aforesaid order, modifying the impugned order dated 26 August 2013 rendered by the learned Single Judge in W.P. No.22528 of 2013, passed the following order:

"8. Thus, we deem it proper to modify the order passed by the learned Single Judge sought to be impugned, to the extent that, after examination by the Medical board and also, on the basis of the certificate to be issued by the Medical Board, the writ petitioner will be required to undergo the other processes of selection for appointment to the post of Conductor, after assessing his fitness and suitability on merit in other aspects. Consequently, the appellant shall consider the case of the writ petitioner for appointment in the post of Conductor, as per law."

3 In pursuance of the contempt notice, a response has been filed by the respondents/Transport Corporation, wherein, it is stated that as ordered, the process of selection was completed and on verification of the certificate, it was found that the petitioner was more than 40 years and 9 months as on 18 September 2012. Thus, the

candidature of the petitioner was rejected.

4 It is contended by the learned Standing Counsel for the respondents/Transport corporation that there is no dis-obedience or non-compliance of the order passed by this Court. However, there is some delay in compliance of the order which can be pardoned, inasmuch as the said delay was un-intentional and bona fide.

5 The learned counsel for the petitioner would contend that the order of this Court has not been complied with in its letter and spirit. The learned Single Judge, in other writ petition being W.P.No.6649 of 2011 filed by the instant petitioner, directed the respondents/Transport Corporation to ignore the over-age of the petitioner and as such, the case of the petitioner should not have been rejected on the ground of his being over-aged. Thus, contempt still survives and it is a case of wilful, deliberate and wanton dis-obedience of the order passed by this Court.

6 We have examined all the facts of the case. In the earlier writ petition being W.P. No.6649 of 2011, the learned Single Judge, while disposing of the same, directed the District Employment Officer, to sponsor the name of the petitioner for selection for the post of Conductor, if his name was not already sponsored due to over-age, within a period of one week. Such observation made by the learned Single Judge, was, by no stretch of imagination, to the effect of considering the petitioner's application for appointment, notwithstanding the fact of his being over-aged. Such a direction was given to the District

Employment Officer only for the purpose of sponsoring the petitioner's name. Consequential selection and appointment depend on fulfilment of all the conditions, including the age requirement.

7 Consequently, we are of the considered view that there is no defiance of the order dated 14 October 2014 in its letter and spirit and as such, no contumacious act by the respondents/Transport Corporation is made out. Accordingly, the contempt petition stands closed. However, it is open to the petitioner to assail the subsequent order, if so advised, under the provisions of law, in the manner known to law.

Cad

SD/-

DEPUTY REGISTRAR (CLAA)

//Certified to be true copy//

Dated at Madras this the day of 2015.

COURT OFFICER (O.S.)

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SS/CO/09/10/2015

One CC to Mr.J.Ravikumar, Advocate, Sr.No.12661