

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2015

CORAM

THE HONOURABLE MR. **JUSTICE M.M.SUNDRESH**

Contempt Petition No.3420 of 2014

S.Muthukrishnan ... Petitioner

Vs

1. Ms.Santhi,
Superintending Engineer,
Udumalpet Electricity Distribution Circle,
Tiruppur District
2. Mr.R.Subramanian,
Executive Engineer (O&M),
Udumalpet Electricity Distribution Circle,
Tiruppur District. ... Respondents

Prayer: Contempt Petition filed under Section 11 of the Contempt of Courts Act praying to impose punishment on the respondents for wilful disobedience of the order of this Court dated 31.10.2014 in W.P.No.28465 of 2014.

For Petitioner: Mr.Manikandan Vathan Chettiar

For Respondents: Mr.P.R.Dhilipukumar

ORDER

The petitioner herein was suspended by order dated 3.7.2013 passed by the 1st respondent. Challenging the said order, a writ petition was filed in W.P.No.28465 of 2014. By the Order dated 31.10.2014, the said writ petition was disposed of by this Court in the following manner:

<https://hcservices.ecourts.gov.in/hcservices/>

'2. The petitioner is working under the

respondents. He has been suspended by the order dated 3.7.2013 by the 1st respondent. Seeking to revoke the order of suspension, the petitioner has made representations before the respondents on 30.12.2013 and 9.10.2014. As no order has been passed on the said representations, the petitioner has filed this writ petition to consider his representations on merits and in accordance with law.

3. In view of the submissions made by the learned counsel appearing on either side, without going into the merits of the case, the respondents are directed to dispose of the representations dated 30.12.2013 and 9.10.2014 on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order. No costs.'

2. Thereafter, an order was passed on 6.12.2014 which is re-produced hereunder:

'As per the memo 3rd cited, Thiru.S.Muthukrishnan, Assistant Engineer/ Town/ Udumalpet (Under Suspension) from 03.07.2013 is informed that the representation, date 09.10.2014 to consider his suspension of revocation could be considered only after the outcome of court case which is filed by the Vigilance and Anti Corruption.

He is directed to acknowledge the receipt of this memo.'

3. Alleging that the said order is in willful disobedience of the Order passed by this Court, the

petitioner has come forward to file this contempt petition.

4. This Court directed the learned counsel for the petitioner to serve notice on the learned counsel for the respondents. When the matter is taken up today for hearing, learned counsel appearing for the respondents submitted that the issue was considered once again and the request made by the petitioner was rejected. Learned counsel also produced the order/memo dated 17.2.2015 passed by the Superintending Engineer, Udumalpet Electricity Distribution Circle, Udumalpet, which is as under:-

'In continuation to this office memo cited in the reference 4th, Thiru.S.Muthurksihnan, Assistant Engineer/ Town/ Udumalpet (Under Suspension) from 03.07.2013 is informed that the misrepresentation date 09.10.2014 revocation of suspension could not be considered based on the instruction given in the para 3 of the memo 3rd cited by the Secretary/ Secretariat Branch/ Chennai. Hence the misrepresentation dated 09.10.2014 is hereby rejected.

He is directed to acknowledge the receipt of this memo.'

The said memo is said to have been passed based upon the memorandum dated 3.9.2012, wherein a decision was taken by the Secretary, Tamil Nadu Generation and Distribution Corporation Limited, Chennai not to revoke suspension of employees involved in Directorate of Vigilance and Anti-Corruption cases.

5. Learned counsel for the petitioner submitted that when a direction is issued by this Court, then an order ought to have been passed as to whether the suspension of the petitioner is liable to be revoked or not based upon the facts governing the case. Learned counsel also submitted that the order dated 17.2.2015 passed by the 1st respondent merely based upon memo dated 3.9.2012 is not in compliance with the order passed by this Court.

6. Learned counsel for the petitioner further submitted that the memo dated 17.2.2015 issued by the 1st respondent would *per se* amount to interfering with the course of justice.

7. This Court is not inclined to accept the said submission. To warrant an action on criminal contempt, willful disobedience is required. This Court does not find the said para materia is being present in this case. To haul a person for contempt, there has to be an element of wilful and deliberate disobedience. A perusal of the order dated 17.2.2015 produced would show that it has been passed based upon memorandum dated 3.9.2012. Admittedly, the memorandum dated 3.9.2012 has been issued by the higher authority and the said authority is also not a party to the writ petition as well as the present contempt petition. It was also issued much prior to the order passed by this

Court.

8. The weapon of contempt is not to be used in abundance or misused. Normally, it cannot be used for implementation of an order for which alternative remedy in law is provided for. Discretion given to the court is to be exercised for maintenance of the court's dignity and majesty of law. Further, an aggrieved party has no right to insist that the court should exercise such jurisdiction as contempt is between a contemner and the court.

9. Therefore, the contempt application is closed. However, liberty is given to the petitioner to work out the remedy in the manner known to law by challenging the order dated 17.2.2015 passed by the 1st respondent.

SD/
DEPUTY REGISTRAR (CLAA)

//Certified to be true copy//

Dated at Madras this the day of 2015.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.

SM/CO/06/03/2015

One CC to M/s.Manickandan Vathan Chettiar, Advocate, SR.3011

To

Ms.Santhi,
Superintending Engineer,
Udumalpet Electricity Distribution Circle,
Tiruppur District