

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30..04..2015

CORAM

THE HONOURABLE MR.JUSTICE **N.KIRUBAKARAN**

Contempt Petition No. 576 of 2014

M. Pachaiappan ..Petitioner

Vs.

Mr. Goutham Day,
The Principal Conservator of
Forests,
15, Jeens Road,
Panagal Building,
Chennai - 15. ..Respondent

Prayer: Petition under Section 11 of the Contempt of
Courts Act, 70/71 to punish the respondent for having
committed contempt of Court by disobeying the order dated
30.09.2011 passed in W.P. No. 12054 of 2011.

For Petitioner :: Mrs.M. Srividhya

For Respondent :: Mr.N.Inbanathan,
Govt. Advocate (F)

ORDER

The writ petition was filed seeking issue of a
Writ of Mandamus directing the respondent to pay pension to
the petitioner with effect from 31.10.2010 with interest
and cost by including the period of disengagement from
01.09.1996 till the date of his regularisation and
thereafter, the period of regularisation of service from

20.08.2010 to 31.10.2010 with arrears and interest @ 18% per annum.

2. Initially, the petitioner was appointed as a Plot Watcher temporarily from 01.10.1983 to 14.08.1990 and thereafter, from 15.08.1990 to 31.08.1996. The petitioner was not engaged from 01.09.1996 to 19.08.2010 due to stoppage of fund sponsored by Forest Department to the Rural Department. The disengagement of the petitioner was not due to the fault on the part of the petitioner and it was also admitted by the respondent in the counter affidavit. As per G.O. Ms.No. 64 Environment and Forest Department dated 08.03.1999, a combined seniority list of all Plot Watchers and Social Forestry Workers was prepared. The petitioner was at serial number 3033 in the said seniority list and based on the seniority list, he was selected and appointed as Forest Watcher on 20.08.2010. His services were not regularised, which was also admitted in paragraph No. 7 of the counter affidavit in the writ petition. Due to the disengagement of the petitioner from 01.09.1996 to 19.08.2010, which was not due to his fault, the said period was required to be considered for the purpose of payment of pension. As per Rule 11(2) of Tamil Nadu Pension Rules, 1978, the petitioner was entitled to get 50% of service from 01.10.1983 to 16.08.2010, till the date of his regularisation on 20.08.2010 for the purpose of

calculation of pensionable service.

3. Since the issue was already decided in W.P. No. 25293 of 2010, on 30.11.2010 and also considering the fact that similarly placed persons, got favourable orders in the writ petitions filed by them, based on the order passed in W.P. No. 25293 of 2010, this Court allowed the writ petition with a direction to the 1st respondent therein to count 50% of the service of the petitioner from 01.10.1983 to 19.08.2010 and the period of regularised service from 20.08.2010 to 31.10.2010 as pensionable service and send the pension proposals to the 3rd respondent therein within three weeks from the date of receipt of a copy of that order and on receipt of the pension proposal, the third respondent therein was directed to sanction eligible pension and other benefits to the petitioner within two months thereafter.

4. The above order was passed by this Court on 30.09.2011.

5. Aggrieved over the said order, the Government preferred writ appeal in W.A. No. 1611 of 2012 and when the appeal came up for admission on 24.07.2012, after hearing both parties, the First Bench of this Court passed the following judgment:

"We have heard the learned counsel appearing for the parties. It has been fairly stated by the learned Special Government Pleader that the issue involved in this appeal is squarely covered by the decision of this Court rendered in W.A. No. 1633 of 2011 on 15.09.2011. Following the same, this writ appeal is dismissed. No costs. Consequently, miscellaneous petition is closed."

6. From the above judgment, it is clear that on the date of filing of the writ appeal, the Government was aware of the judgment passed in Writ Appeal No. 1633 of 2011, which covers the present case also. The judgment in the said Writ Appeal namely, W.A. No. 1633 of 2011 was passed on 15.09.2011. When the issue is covered by a Division Bench's order, it is not known as to why the Government preferred an appeal. Either, it should have been on account of lack of proper legal advice or it should have been deliberately filed for unknown reasons. In the process, the Court's earlier order has been ignored deliberately thereby wasting public money as well as the precious time of the Court. Besides, it also adds upto the arrears of cases before the Court when Courts are already blamed unnecessarily and uncharitably for pendency of cases. The Government, being the biggest litigant, if the

litigations initiated on their behalf, are without any basis, definitely, the Courts would be under tremendous and unnecessary pressure, when they are already burdened with arrears of cases. Therefore, a reasonable approach is, what is required to be adopted, before preferring appeals, by ascertaining as to whether there is already a binding order or not. If, without ascertaining the position, appeals are filed or proceedings are initiated by the Government, it would only amount to violation of binding orders passed by Courts.

7. Though it is stated that the Government has already complied with the order passed by this Court by issuance of G.O.Ms. No. 121 Environment and Forests (FR-2) Department dated 24.03.2014, as modified by issuance of G.O.(D) No. 127 Environment and Forests (FR-2) Department dated 03.04.2014, it is seen that the order in the writ petition was passed on 30.09.2011; Writ Appeal No. 1611 of 2012 was disposed of on 24.07.2012; contempt petition was filed on 06.01.2014 and after notice was taken by the Government, the G.O. has been issued, very casually, on 24.03.2014 and thereafter, modified by another G.O. dated 03.04.2014. This would only go to show that the respondent has got scant respect for the Court's order. Eventhough decision has been taken to implement the Court's order, in spite of time limit having been prescribed by this Court,

it has been done in a very leisurely manner.

8. The Government is well within its power and discretion to file an appeal and it has to be judiciously exercised. In this case, even after the disposal of W.A. No. 1611 of 2012 on 24.07.2012, the respondent has taken almost 2 years to implement the order. It is not known whether any SLP has been filed. Further, there is no explanation as to why there was delay in implementing the Court's order. Therefore, this Court imposes a sum of Rs.5000/- as costs, payable to the petitioner, within a period of four weeks from the date of receipt of a copy of this order. The contempt petition is closed.

For reporting compliance, call on 15.07.2015.

Nv

SD/
DEPUTY REGISTRAR(OS)

//Certified to be true copy//

Dated at Madras this the day of 2015.

COURT OFFICER(O.S.)

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SS/CO/18/06/2015

One CC to Government Pleader, (Forest) SR.6591

To

The Principal Conservator of
Forests,
15, Jeens Road,
Panagal Building,