

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2016

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

Contempt Petition No.1489 of 2015

Mrs.R.Rajam Hepsy

.. Petitioner

vs.

Mr.Prumma Nayagan,
The District Disabled Rehabilitation Officer,
Rehabilitation Centre,
Nagercoil, Kanyakumari District.

.. Respondent

Contempt Petition filed under Section 11 of the
Contempt of Courts Act 1971 praying to punish the
respondent for disobeying the lawful orders of this Court
dated 18.4.2013 in W.P.No.6441 of 2005.

For petitioner : Mrs.Lita Srinivasan

For respondent : Mrs.P.Kavitha,
Government Advocate

ORDER

This Contempt Petition has been filed by the
petitioner alleging non-compliance of the order dated
18.4.2013 passed in W.P.No.6441 of 2005.

2. This Court by order dated 18.4.2003 in
W.P.No.6441 of 2005 has set aside the order passed by the
third respondent therein dated 19.5.2004 in Proceedings
O.Mu.No.1208/03 based on the provisions of Article 14 of
the Constitution of India and also held that G.O.Ms.No.203,
Education, Science and Technology Department dated

19.3.1996 cannot be legally sustained in view of the fact that the aforesaid Government Order issued by the Education Department is covering all kinds of Schools for normal children, namely, Backward Class Welfare Schools, Kallar Reclamation School, the Schools run by the Forest Department, Harijan Welfare Schools and Reformatory Schools, the third respondent, and ought not to have refused the approval to the petitioner's appointment. This Court has also further observed in the order dated 18.4.2013 that having already paid a sum of Rs.6,80,705/- to the petitioner by virtue of an interim direction, the third respondent was further directed to disburse the rest of the salary for the period the petitioner worked till she reached the age of superannuation within a period of two months from the date of receipt of a copy of that order. Alleging this portion of order was not complied with, the present Contempt Petition has been brought before this Court.

3. Pursuant to the notice, the learned Government Advocate, Mrs.P.Kavitha, filed an affidavit sworn in by the third respondent, namely, Mr.K.B.Pirama Nayagam, District Differently Abled Welfare Officer, Nagercoil, Kanyakumari District tendering an unconditional apology for belated compliance. The learned Government Advocate has also submitted that the petitioner made a representation to the Commissioner on 18.7.2007 wherein she has requested to approve her appointment as per G.O.Ms.No.100 and 125, which

stipulates that all the appointments made from 27.6.2003 onwards, the pay would be on consolidated basis. In her representation, the petitioner has also referred to the proceedings No.8803/SS/2003, dated 20.2.2006 in which one Tmt.S.Evangeline was appointed as B.T.Assistant with effect from 27.6.2003 as per G.O.Ms.No.100 and 125 and requested to approve her appointment on the same footing. Based upon her representation only, the petitioner's appointment was approved and consolidated pay was sanctioned to the petitioner with effect from 29.5.2003. Actually, the petitioner's services should have been approved only from 30.6.2003 i.e. the date of proposal of the Correspondent of the School or 27.6.2003 i.e. the date of issue of G.O.Ms.No.100, School Education (Budget) Department, dated 27.6.2003. However, since she had joined duty on 29.5.2003, her services were calculated from that date itself taking a sympathetic view. Proposals were sent to the State Commissioner for the Differently Abled vide Letter No.2755/A/2004 dated 21.4.2014 requesting approval for the appointment of the petitioner from 29.5.2003 and also for sanctioning salary for the period from 29.5.2003 to 3.7.2008. Accepting the proposal, the State Commissioner for the Differently Abled has issued orders vide Proceedings No.2214/SS/2014 dated 13.8.2015 approving the appointment of the petitioner Tmt.R.Rajam Hepsy, with effect from 29.5.2003 and ordered that arrears of salary be claimed at the rate of Rs.3,000/- per month as salary on

consolidated pay as per G.O.Ms.No.100, School Education (Budget) Department, dated 27.6.2003 and in the time scale of pay Rs.4500-125-7000 from 1.6.2006 to 3.7.2008 as per G.O.Ms.No.99 School Education (Budget-2) Department, dated 27.6.2006. Ultimately, the learned Government Advocate has submitted that since the service benefits of the petitioner have been disbursed, the Contempt Petition deserves to be closed.

4. Mrs.Lita Srinivasan, learned counsel appearing for the petitioner has contended before this Court that the petitioner has been wrongly singled out and refused to be paid with regular time scale of pay from the date of appointment whereas the teachers working in special schools who came to Court and obtained orders have been paid with regular regular time scale from the date of appointment.

5. This Court is unable to agree to the argument of the learned counsel for the petitioner. Firstly, the petitioner herself in her letter dated 18.07.2007 enclosed at pages 16 and 17 of the typed set of papers filed by the respondent has clearly requested for her appointment on the basis of G.O.Ms.No.100, School Education (Budget) Department, dated 27.6.2003. Besides, the Correspondent of her School has also in his proposal dated 26.10.2010 enclosed at Page Nos.18 and 19 of the typed set of papers filed by the respondent has also sought the service benefits of the petitioner as per G.O.Ms.No.100, School Education (Budget) Department, dated 27.6.2003.

6. In view of the fact that the proposal sent by the School claiming service benefits to the petitioner following G.O.Ms.No.100, School Education (Budget) Department, dated 27.6.2003 and G.O.Ms.No.125 School Education (X2) Department, dated 12.11.2003 was in the right direction and the rest of the service benefits have also been disbursed to the petitioner, this Court is of the considered view that the Contempt Petition needs to be closed as nothing survives. Accordingly, the Contempt Petition is closed.

SD/-
JOINT REGISTRAR(OS)

asvm

//Certified to be true copy//

Dated at Madras this the day of 2016.

COURT OFFICER(O.S.)

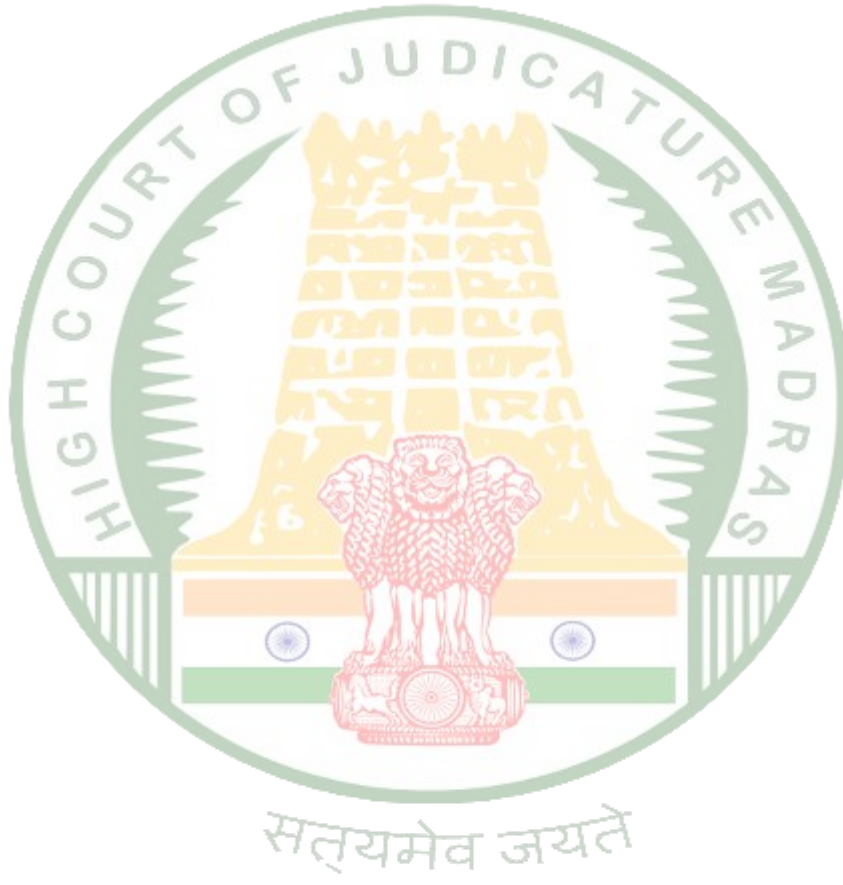
From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.

SMI/CO/01/06/2016

To

1.The District Disabled Rehabilitation Officer,
Rehabilitation Centre,
Nagercoil, Kanyakumari District.

1.One CC to M/S.Lita Srinivasan, Advocate, Sr.No.1165/2016.
2.One CC to The Government Pleader, Sr.No.1307/2016.



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