

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **07.01.2016**

CORAM:

THE HONOURABLE MR.JUSTICE **K.K.SASIDHARAN**

Cont.P.No.1512 of 2015

Varadhan

... Petitioner

Vs.

Mr.A.Sarthar
The Commissioner
Kanchipuram Municipality
Kanchipuram District.

... Respondent

Petition filed under Section 11 of the Contempt of Courts Act to punish the respondent for non-compliance of the order passed by this Court dated 22.01.2015 in W.P.No.32238 of 2014.

For Petitioner : Mr.M.Devadoss

For Respondent : Mr.G.B.Rajesh

ORDER

The petitioner has come up with this contempt petition to punish the respondent on account of his willful disobedience of the order passed by this Court in W.P.No.32238 of 2014.

2. Heard the learned counsel for the petitioner and

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

the learned counsel for the respondent.

3. This Court passed an order on 22.01.2015 in W.P.No.32238 of 2014, directing the respondent to consider the representation submitted by the petitioner for payment of subsistence allowance, in accordance with Section 3 of the Payment of Subsistence Allowance Act, 1981. It is the grievance of the petitioner that he was not paid full salary, inspite of continuing the suspension beyond 180 days.

4. The respondent justified the proceedings dated 03.03.2015, which was passed in pursuance to the direction given by this Court on 22.01.2015.

5. The contention of the learned counsel for the petitioner is based on Section 3 of the Payment of Subsistence Allowance Act.

6. There is no dispute that subsistence allowance of the petitioner was enhanced to 75% by order dated 03.03.2015. The grievance now is on account of the failure to pay the full salary, as the suspension continued beyond 180 days.

7. The petitioner would be justified in his contention, in case, there are no Rules governing the matter and more particularly, with regard to payment of subsistence allowance.

8. The Tamil Nadu Municipal Service Rules, 1970 contained provisions for payment of subsistence allowance. Rule 41 of the Tamil Nadu Municipal Service Rules provides that the provisions of Fundamental Rules, Tamil Nadu Leave Rules, 1933, Tamil Nadu Manual of Special Pay and Allowances, Tamil Nadu Pension Code, as amended from time to time, as applicable to Government servants, shall apply to the employees of Municipalities, in so far as they are not inconsistent with the rules made under the District Municipalities Act, 1920.

9. Fundamental Rules 53(1) deals with payment of subsistence allowance. Since the provisions of Fundamental Rules is made applicable to the Municipal Employees governed by the District Municipalities Act, 1920, there is no question of invoking Section 3 of the Payment of Subsistence Allowance Act, for payment of full salary to the petitioner during the period of suspension. I am, therefore, of the view that the petitioner has not made out a case for initiating contempt proceedings against the respondent. His case for payment of subsistence allowance

was rightly considered under the provisions of Fundamental Rules.

In the upshot, I dismiss the contempt Petition. No costs.

Svki

SD/-

DEPUTY REGISTRAR (CLAA)

//Certified to be true copy//

Dated at Madras this the day of 2016.

COURT OFFICER (O.S.)

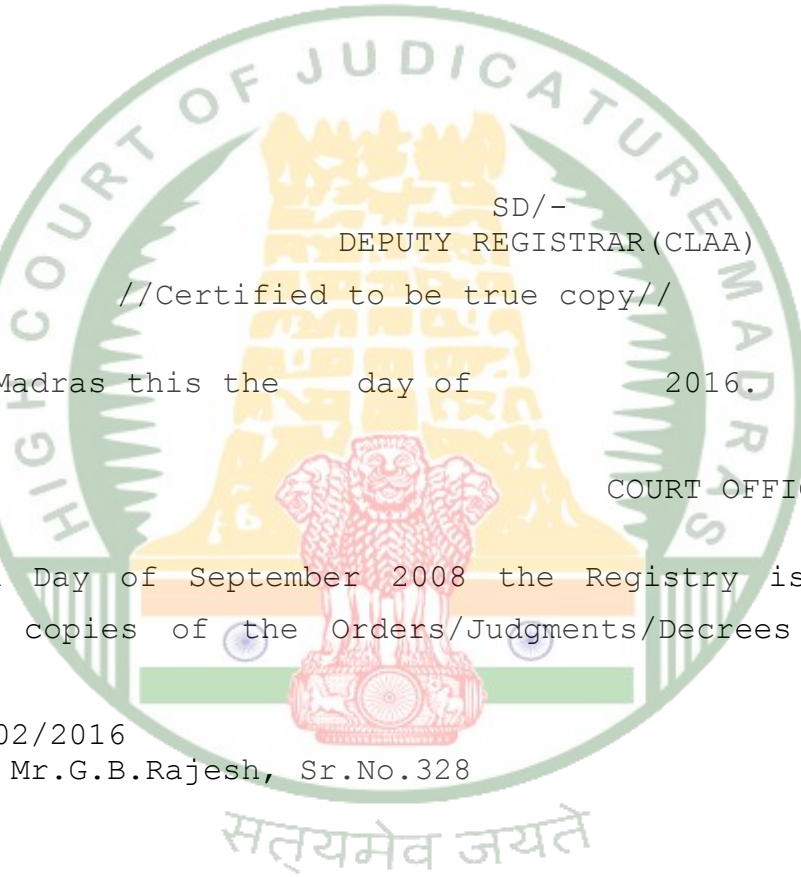
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One CC to Mr.G.B.Rajesh, Sr.No.328

To

Mr.A.Sarthar
The Commissioner
Kanchipuram Municipality
Kanchipuram District.



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