

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11/4/2016

C O R A M

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

Contempt Petition No.2765 of 2015

K. Nagarajan

...

Petitioner

Vs

S. Sakthivel

President

Chettiyakkapalayam Panchayat

Negamam via Kinathukadavu Taluk

Coimbatore District.

...

Respondent

Petition filed under Section 11 of the Contempt of Courts Act to punish the respondent for having committed contempt of Court for disobeying the order dated 25/9/2015 passed in W.P.No.28585 of 2015.

For petitioner

...

Mr.V.Ravi

For respondents

...

Mr.N.Sakthivel

Government Advocate

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O R D E R

This Contempt Petition has been filed praying to punish the respondents for having committed contempt of Court for disobeying the order, dated 25/9/2015, passed in W.P.No.28585 of 2015.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate for the respondent.

3. The learned Government Advocate appearing for the respondent has drawn the attention of this Court to the counter affidavit and the additional counter affidavit filed by the respondent.

4. It is relevant to extract paragraph 5 of the counter affidavit of the respondent.

"I respectfully submit that the averments in para No.6 of the affidavit filed in support of the writ petition are absolutely false. I never refused the petitioner to join duty or I scolded him. The said averments are absolutely false. On the basis of the order dated 25/9/2015 passed in W.P.No.28585 of 2015, I requested the petitioner to submit a copy of the representation dated 27/7/2015 said to have been submitted by the petitioner so as to enable me to comply with the directions issued by this Honourable Court.

the representation dated 27/7/2015. Notwithstanding the same, I sent a letter dated 18/12/2015 calling upon the petitioner to join duty and to discharge his official work as directed by this Honourable Court. Accordingly, the petitioner also joined duty on 21/12/2015. To this effect, the petitioner has also written a letter dated 31/12/2015 intimating that he joined duty on 21/12/2015. Further on 4/1/2016, the petitioner was paid salary. Similarly, on 29/1/2016, the petitioner was paid salary for the month of January 2016. This could be evident from the statement of the bank account which would make it clear that the petitioner was permitted to join duty and he was also paid salary for the month of December 2015 and January 2016. Therefore, it is respectfully submitted that the petitioner has joined duty and working as Waterman in the Village Panchayat. In such situation, the contempt petition is liable to be dismissed."

5. It is useful to extract paragraph No.7 of the additional counter affidavit filed by the respondent.

"I respectfully submit that the fact remains that the order passed by this Court in the contempt petition has been duly and fully complied with. Even for the month of March and April 2016, the petitioner did not attend duty. It is needless to mention that even after the order passed in the writ petition and his reinstatement, the petitioner is not regular to his work and he frequently absented himself from duty by citing his ailment i.e., Cirrhosis of liver with portal hypertension with cardiomyopathy. In any event, it is not the subject matter of this contempt petition."

6. The learned counsel appearing for the petitioner would submit that though the petitioner is hale and healthy, he has not been permitted to join duty and in violation of the orders passed by this Court, he was kept away from service.

7. The learned counsel appearing for the petitioner would further submitted that on 25/9/2016, this Court, vide order

dated 25/9/2016 has directed the third respondent to reinstate the petitioner in service forthwith. The said order has been belatedly complied with. Therefore, for the interregnum period, he should be paid the salary.

8. The learned Government Advocate appearing for the respondent would submit that the petitioner is not keeping good health and he did not attend the duty during the month of March and April 2016 and due to the pendency of the contempt petition, no orders in writing have been passed. However, the said fact is seriously disputed by the learned counsel appearing for the petitioner.

9. This Court has heard the rival submissions made on either side and also perused the materials available on record.

10. Admittedly, the petitioner was terminated from service on 14/7/2015. In compliance of the orders passed by this Court, a letter dated 18/12/2015, was issued to him calling upon to join duty and accordingly, the petitioner joined the duty on 21/12/2015. In the considered opinion of the Court, the petitioner is entitled to get salary.

11. It is the further stand of the respondent/contemnor that the salary payable to the petitioner has been paid from 8/10/2015 to 20/12/2015 on 9/4/2016.

12. In the light of the above said facts, this Court is of the view that the respondents without prejudice to the proceedings to be initiated shall pay the salary for fifteen days for the month of July 2015 and to pay salary for the months of August 2015, September 2015 and for seven days for the month of October 2015, within a period of two weeks from today. In respect of the other issues urged by the learned counsel for the petitioner, this Court is of the view that issues involve adjudication of disputed question of fact and therefore, cannot be probed into in the contempt proceedings.

13. In view of the above, this Contempt Petition is closed.

mvs.

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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SMI/CO/25/04/2016

One CC to M/s.S.Sakthivel, Advocate, SR.4672

To
The President
Chettiyakkapalayam Panchayat
Negamam via
Kinnathukudayur Taluk
Coimbatore District.