

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :10.11.2016

CORAM

THE HON'BLE Mr. **JUSTICE T.S.SIVAGNANAM**

Cont.P.No.2788 of 2016

K.Dhanraj

... Petitioner

Vs.

1.Mr.Mayakrishnan,
The Managing Director,
Tamil Nadu State Transport
Corporation (Salem) Limited,
No.12, Ramakrishnan Salai,
Salem Region, Salem.

2.Mr.Shanmugasundaram,
The General Manager (Operation & Maintenance),
Tamil Nadu State Transport
Corporation (Salem) Limited,
No.12, Ramakrishnan Salai,
Salem Region, Salem

.... Respondents

Contempt Petition has been filed under Section 11 of
Contempt of Courts Act to punish the respondents herein
for having committed wilful and deliberate contempt and
disobedience of the lawful final order passed by this
Court, dated 8.1.2016 and made in W.P.No.21106 of 2014.

For Petitioner : Mr.M.Selvam

For Respondents : Mr.P.Paramasivados

ORDER

Heard Mr.M.Selvam, the learned counsel for
the petitioner and Mr.P.Paramasiva Doss, the learned
Standing counsel for the respondent/contemnor.

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

2. The respondent management filed W.P.No.21106

of 2014, challenging the order passed by the Special Joint Commissioner of Labour, in A.P.No.156 of 2013, dated 31.10.2015, whereby, the said authority rejected the respondent management's request for grant of approval of the order of dismissal passed against the petitioner. In fact, the order dated 31.10.2015, is a common order in two approval petitions, namely, A.P.No.158 of 2013, pertaining to the petitioner herein, and A.P.No.157 of 2013, pertaining to one R.Sukumaran and the Management had filed separate writ petitions in W.P.Nos.21106 and 21108 of 2014, as against the said order. Both the writ petitions were disposed of by this Court, by order dated 8.1.2016. Consequent upon the said order, the respondent passed an order dated 29.4.2016.

3. The other workman filed a contempt petition before this Court in Contempt Petition No.4729 of 2016, pointing out that the order dated 29.4.2016, passed by the respondent, is in violation of the order and direction of the Court.

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4. This Court heard the Contempt Petition No.4729 of 2016 and disposed of the same by order dated 12.08.2016. The operative portion of the order reads as follows:

"4. Thus in terms of the above order though this Court interfered with the orders in the Approval Petition, the Court considered as to what would be the

appropriate punishment to be imposed on the workmen. Thus, considering the overall circumstances of the case and the workman being out of the employment since 2010, the petitioner herein not having been paid the wages under Section 17-B of the Industrial Disputes Act, this Court directed the management to impose any other lesser punishment other than dismissal and such re-consideration should be made within three weeks from the date of receipt of copy of the order.

5. According to the learned counsel for the respondent/management they have passed orders on 18.07.2016 reinstated the petitioner and his pay has been reduced by five stages. However, it is pointed out by the learned counsel for the petitioner that another order passed earlier on 29.4.2016 in which the entire past services put in by the petitioner has been given a go-by. On perusal of the order dated 29.4.2016 though it appears to be an order calling upon the petitioner to come for verification of his physical fitness, in Clause 1 therein, it is stated that the period during which the petitioner was out of employment will not be taken into consideration for any purpose. If such is the order, then the respondent would be guilty of committing contempt, whereas if they stand by the order dated 18.7.2016, they would stand exonerated.

6. The learned counsel for the respondent would submit that they have

implemented the order dated 18.7.2016. In that view of the matter, the condition imposed in Clause 1 of the order dated 29.4.2016 is held to be unsustainable and cannot be implemented and there will be a direction to respondent Corporation to take into consideration the period during which the petitioner was out of service for all other purposes except for monetary purpose. In other words that period should be reckoned while computing the total length of service of the petitioner as this would be required for computing pension.

7. With the above direction, this contempt petition is disposed of. No costs."

5. The learned counsel appearing for the respondent management submitted that similar direction and orders may be passed in this contempt petition also, so that the respondent can comply with the same.

6. In view of the above submission, the condition imposed in Clause 1 of the order dated 29.4.2016 is held to be unsustainable and cannot be implemented and there will be a direction to respondent Corporation to take into consideration the period during which the petitioner was out of service for all other purposes except for monetary purpose. In other words that period should be reckoned while computing the total length of service of the

7. With the above direction, this contempt petition is disposed of. No costs.

SD/-
JOINT REGISTRAR(OS)

msk

//Certified to be true copy//

Dated at Madras this the day of 2017.

COURT OFFICER(O.S.)

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SS/CO/19/12/2016

To

- 1.Mr.Mayakrishnan,
The Managing Director,
Tamil Nadu State Transport
Corporation (Salem) Limited,
No.12, Ramakrishnan Salai,
Salem Region, Salem.
- 2.Mr.Shanmugasundaram,
The General Manager(Operation & Maintenance),
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