

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

W.P.No.38798 of 2016

and

W.M.P. No. 33255 of 2016

M. Muthukaruppan .. Petitioner
vs.

1. Union of India rep. by
The Secretary to Govt. of India
Ministry of Railways
Rail Bhavan, New Delhi- 1.
2. The Railway Board rep. by
The Deputy Secretary E (O)
Rail Board
New Delhi - 110 001
3. The Union Public Service Commission
(Sangh Lok Seva Ayog)
Dholpur House
Shahjahan Road
New Delhi - 110 069.
4. The Registrar
Central Administrative Tribunal
Chennai - 600 104. सत्यमेव जयते .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorari and Mandamus, to call for the records relating to the order dated 16.07.2015 passed by the 4th respondent in O.A. No. 310/00608/2014 and quash the same and direct the respondents to release all the monetary and service benefits within the "prescribed period" or pass other orders.

For Petitioner : Mr. M. Muthukaruppan
(Party-in-person)

For Respondents:

ORDER

(Order of the Court was made by S.MANIKUMAR, J.)

Challenge in the Writ Petition is to the order made in O.A. No. 310/00608/2014 dated 16.07.2015, by which the Tribunal, after taking note of the acquittal of the writ petitioner in C.C. No.18/2006 dated 09.03.2011 launched by CBI and the observation of the National Human Rights Commission, remitted the matter back to the department, for re-consideration and while doing so, the Tribunal directed the respondent to take on record the length of services rendered by the writ petitioner.

2. Material on record discloses that contending that there was willful disobedience of the order passed by the Central Administrative Tribunal in O.A. No. 608/2014 dated 16.07.2015, the petitioner has filed Contempt Petition No.22 of 2016. The third respondent therein, Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi - 110 069, has filed a counter affidavit, praying to delete the name of the Under Secretary, impleaded as an alleged contemnor. Mr. Ajay Kumar Mishra, Under Secretary submitted that, he is now a practising lawyer. Submission is placed on record. The respondents 1 and 2 have filed the counter affidavit, contending inter alia that, in obedience to the order made in O.A. No.608 of 2014, the Joint Secretary (E) II, Railway Board, Ministry of Railways, Government of India, has passed an order stating that the order has been complied with, and that there was no willful disobedience. Accepting the said submission, the Central Administrative Tribunal, by order dated 03.10.2016 closed the contempt petitioner, observing as hereunder :-

" In view of the order dated 12.04.2016 passed by the respondents, we feel that there is no willful disobedience on the part of the respondents. Accordingly, the contempt proceedings against the respondents are liable to be closed "

3. From the above, it could be deduced that the intention of the writ petitioner was to punish the alleged contemnors, on the ground that the order in O.A.No. 608 of 2014 dated 16.07.2015 was not implemented. When the competent authority has already passed orders on 12.04.2016, rejecting the case of the petitioner stating that there is no fresh cause for any action being taken in the matter. Writ petitioner who had filed Contempt Petition, for non-implementation of the order in O.A. No.608 of 2014, now, in the instant writ petition has sought to quash the very order dated 16.07.2015 passed by the 4th respondent in O.A. No. 310/00608/2014.

4. Writ petitioner cannot be allowed to blow hot or cold. At one stage, he wanted implementation of the order dated 16.07.2015 and after rejection of his case, seeks to quash the order passed in O.A. No. 310/00608/2014. By inviting attention of this Court to paragraph 7 and 8 of the order dated 12.04.2016, passed by the Joint Secretary (E) II, that Mr. M.Muthukaruppan, party-in-person, assailed correctness of the above said order, this Court is not inclined to advert the same, as the said order has not been challenged before the competent forum. At this juncture, reference to the judgment of the Hon'ble Supreme Court in the Civil Appeal No.6770 of 2013, is of no relevance to this case.

5. In the light of the above, we are not inclined to entertain the writ petition and hence the same is liable to be dismissed. Registry is directed to return the records in O.A. No.310 of 2014 to the Central Administrative Tribunal, Madras Bench.

6. Accordingly, the Writ Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

avr

To

1. The Secretary to Govt. of India
Union of India, Ministry of Railways
Rail Bhavan, New Delhi- 1.
2. The Deputy Secretary to E (O)
Rail Board, New Delhi - 110 001
3. The Union Public Service Commission
(SanghLok Seva Ayog)
Dholpur House, Shahjahan Road,
New Delhi - 110 069.

4. The Registrar
Central Administrative Tribunal
Chennai - 600 104.(with Records)

5. The Section Officer,
V.R.Section,
High Court, Madras.

+lcc to Mr.M.Muthukaruppan, Advocate Sr.65325

W.P.No.38798 of 2016
and
W.M.P. No. 33255 of 2016

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srg 05/12/2016



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