

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2017

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH

AND

THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

Contempt Petition No.1403 of 2017

in

W.A.No.541 of 2012

K.P.Sugumar

... Petitioner/Petitioner

-vs-

1.V.Arun Roy,
The Managing Director,
CMWSS Board,
No.1, Pumping Station Road,
Chintradripet, Chennai-600 002.

2.V.Murugesan,
Secretary cum General Manager
Chennai Metropolitan Water Supply
and Sewerage Board,
Personnel and Administration (VC) Department,
No.1, Pumping Station Road,
Chintradripet, Chennai-600 002.
... Respondents/Respondents

Petition filed under Section 11 of the Contempts of Court Act, 1971, to punish the respondents for their wilful disobedience for having committed contempt of order dated 12.11.2013 passed by this Court in W.A.No.541 of 2012.

For Petitioner :: Mr.M.Naraayanaswamy

For Respondents :: Mr.N.Ramesh

ORDER

(Order of the Court was made by
HULUVADI G.RAMESH, J.)

Alleging breach of integrity and devotion to duty, the petitioner was issued with a charge memo on 13.07.2006 and an enquiry officer was appointed. Ultimately, the matter ended in the dismissal of the petitioner from service. On an appeal by the petitioner, the appellate authority-Board modified the punishment from "removal of service" to "compulsory retirement". Challenging the same, the petitioner filed a writ petition before this Court in W.P.No.26384 of 2008 and this Court passed an order on 14.03.2011 directing the authorities to reinstate the petitioner forthwith with continuity of service but without back wages based on the rule of 'no work - no pay'. Challenging the same, W.A.No.541 of 2012 was filed by the Board and by judgment dated 12.11.2013, this Court directed the respondents herein to reinstate the petitioner herein without any back wages till the date the petitioner joining the service. It was further directed that the petitioner has to be reinstated within a period of three months from the date of receipt of a copy of the judgment. It was also directed that the period from 22.09.2008 till the date of the petitioner's joining the service shall be taken into account for continuity of service and for calculating the pensionary benefits and other attendant benefits.

2. Alleging contempt of the judgment passed by this Court in W.A.No.541 of 2012, the present contempt petition has been filed by the petitioner/employee.

3. Heard the learned counsel on either side and perused the materials available on record.

4. It appears that after passing of the judgment dated 12.11.2013 in the writ appeal, the Management had reinstated the petitioner without back wages. It appears that even though it was directed to reinstate the petitioner into service within a period of three months from the date of receipt of the judgment, there was a delay in reinstating the petitioner as he was reinstated only on 31.12.2014, i.e., with a delay of about 10 months.

5. It is the submission of the learned counsel for the petitioner that as per the order passed by the learned single Judge in W.P.No.26384 of 2008 dated 14.03.2011, the petitioner should have been reinstated into service forthwith and the salary should have been paid from the date of the order passed by the learned single Judge. But, it is the submission of the learned counsel for the respondent - Board that salary for the said period had already been deposited / paid to the petitioner. Be that as it may, we find that the Division Bench has not stated anything about this aspect in the judgment made in the writ appeal. After hearing the submissions, we find that the petitioner was reinstated into service on 31.12.2014, i.e.,

with a delay of about 10 months. But it has been clearly observed in the judgment made by the Division Bench that the petitioner is not entitled for back wages, but only continuity of service has been ordered for calculating the pensionary benefits and other attendant benefits. In this respect, if the petitioner had any grievance, he should have sought clarification from the Division Bench at the relevant point of time. But he has not done so. Since it has been stated in the judgment of the Division Bench that the petitioner is not entitled for back wages, we are not inclined to direct the authorities to pay salary to the petitioner for the delayed period.

6. In the above stated circumstances, we find that already there is substantial compliance of the judgment passed by this Court in the writ appeal. Hence, the contempt petition is closed.

SD/-

JOINT REGISTRAR (OS)

km

//Certified to be true copy//

Dated at Madras this the day of 2017.

COURT OFFICER (O.S.)

from 25th day of September 2008 the Registry is issuing Certified copies of the Orders/Judgments/Decrees in this format.

KR/CO/24/11/2017

one cc to Mr.N.Ramesh , Advocate, Sr.No.12329

one cc to Mr.M.Naraayanaswamy, Advocate, Sr.No.12387