

In the High Court of Judicature at Madras

Dated : 09.11.2017

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Contempt Petition No.1726 of 2017

1.Gnanasundari
2.K.Jamuna Rani
3.R.Punitha
4.G.Shyamala
5.K.Renuka
6.M.A.Rani
7.B.Saraswathi
8.Saraswathi Velu
9.S.Sakila

....Petitioners

Vs

Thiru.C.Sylendra Babu, IPS, Additional
Director General of Prisons, Egmore,
Chennai-8.

....Respondent

PETITION under Section 11 of the Contempt of Courts
Act, 1971 to punish the respondent for his willful and
intentional disobedience of the order of this Court made
in W.P.No.11909 of 2006 dated 21.7.2010.

For Petitioners :
For Respondent :

Ms.Daicy
Mr.R.Rajeswaran, SGP

ORDER

This contempt petition has been filed alleging willful
disobedience of the order and direction issued in
W.P.No.11909 of 2006 dated 21.7.2010. The relevant portions
of the order and direction issued in the order dated
21.7.2010 read as follows :

"14. Though this direction was issued as early as 30.8.2002 for reasons best known, the respondents failed to take any action. One of the applicants before the Tribunal and the first respondent herein filed W.P.No.34262 of 2002 to implement the order of the Tribunal and direction was issued by this Court on 25.11.2004 to implement the directions expeditiously. It is thereafter G.O.Ms.No.710 came to be passed. Thus by efflux of time, the petitioners herein could not get the advantage of age relaxation and therefore, the petitioners cannot be put in a disadvantageous position. In fact one Daisy Bai filed O.A.No.172 of 1990 seeking regularization of her services and the Tribunal by an order dated 31.12.1991 issued directions by relaxing the age qualification. The Government also implemented the order passed by the Tribunal by G.O.Ms.No. 1316 dated 1.9.1993 by exercising the powers conferred under Rule 48 of the General Rules and relaxed the age qualification. Therefore, it is not as if the Government has not considered the relaxation of the age qualification on earlier occasion. The submission of the learned counsel is that if the order of the Tribunal had been implemented immediately, the petitioners would not have been driven

to approach this Court by way of the present Writ Petition. The delay in implementation of the order of the Tribunal has resulted in loosing their right to get regular appointment.

15. In my view, the petitioners cannot be penalized for the delayed implementation of the direction of the Tribunal by the respondents. Therefore, this is a fit case in which the Government is required to grant relaxation in favour of the petitioners considering the peculiar facts and circumstances and in view of the earlier directions by the Tribunal coupled with the fact that on earlier occasion, the Government themselves have granted age relaxation.

16. It is submitted that pursuant to the interim direction granted by this Court on 26.4.2006 in W.P.M.P.No.13511 of 2006, the petitioners have attended the selection and in the counter affidavit the only reason for non selection is on account of age criteria and no other reason has been given. Therefore, it is a fit case where the petitioners are entitled to succeed and be granted the benefit of age relaxation.

17. In the result, the Writ Petition is disposed of with a direction to the respondents to regularize the services of the

petitioners by granting relaxation of the age qualification stipulated in G.O.Ms.No.710 dated 17.8.2005 by passing appropriate orders under Rule 48 of the General Rules with effect from the date of filing of the Original Application and grant the benefits notionally from the date of regularization. The respondents are directed to complete the exercise within a period of three months from the date of receipt of a copy of this order."

2. In terms of the above directions, the respondent was required to regularize the services of the petitioners by granting relaxation of age and qualifications stipulated in G.O.Ms.No.710 dated 17.8.2005 by invoking Rule 48 of the General Rules with effect from the date of filing of the original applications and grant the benefits notionally from the date of regularization. The respondent regularized the services of the petitioners with effect from various dates starting from 04.9.2000. So far as the monetary benefits are concerned, the same had been disbursed for the appropriate periods.

3. The petitioners' case is that in the seniority list of Grade II Warder (Female) prepared by the respondent Department, the respective notional dates of regularization were shown as 04.9.2000, 05.9.2000, 11.9.2000, 28.1.2002, 29.10.2004 and 17.4.2006 i.e the respective dates, on

which, they filed original applications before the Tribunal. The seniority assigned for the petitioners is in Sl.Nos.2, 6, 4, 42, 12, 43, 11, 8 and 9 respectively. Further, so far as the sixth petitioner namely Ms.M.A.Rani is concerned, it appears that she was dismissed from service for unauthorized absence. As she is a party to the writ petition, her name is shown in the cause list as one of the petitioners. Therefore, the name of Ms.M.A.Rani shall be deleted.

4. The contention of the remaining petitioners is that the persons, who have been appointed much after the petitioners have been promoted as Chief Head Warder and by way of illustration, the learned counsel has referred to a candidate in S.No.25 of the seniority list, who has been working in the Special Prison for Women, Vellore and who was appointed on 22.8.2005 and now promoted as Chief Head Warder on 07.1.2015. Therefore, it is submitted that the notional regularization should also reckon to the benefit of the remaining petitioners for the purpose of seniority except for monetary benefits.

5. In my considered view, this issue cannot be agitated in a contempt petition, as the persons, over whom, the remaining petitioners claim seniority, are not parties to the present litigation or in the writ petition filed by all the petitioners herein. Hence, it is essentially a fresh cause of action wherein the parties, against whom the

remaining petitioners have grievance, have to be impleaded as respondents.

6. With the above observation, the contempt petition is closed.

SD/-

ASSISTANT REGISTRAR(OS-I)

RS

//Certified to be true copy//

Dated at Madras this the day of 2017.

COURT OFFICER(O.S.)

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KR/CO/28/11/2017

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one cc to M/s.G.Bala and Daisy, Advocate, Sr.No.13262

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