

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 14.09.2017

CORAM

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

Cont.P.No.347 OF 2017

M.Nandagopal

.. Petitioner

Versus

1. Mr.Vasista Jori,
General Manager,
Southern Railway,
Park Town, Chennai 600 003.
2. Mr.D.W.Samuel,
Senior Divisional Personnel Officer,
Divisional Manager's Office,
Personnel Branch,
Southern Railway,
Chennai Division, Chennai 600 003.
3. Ms.Prathiba D.Yadav,
Senior Divisional Signal
Telecom Engineer-I,
Southern Railway,
Chennai Division, Chennai 600 003.
4. Mr.Paul Samy,
Additional Divisional Signal
and Telecom Engineer/AJJ,
Southern Railway,
Arakkonam.

5. Mr.Nareshkumar,
Senior Section Engineer,
Southern Railway,
Arakkonam.

.. Respondents

Prayer: This Contempt Petition filed under Section 11 of the Contempt of Court Act, 70/71 to punish the respondents for having committed contempt of Court for disobeying the order, dated 24.10.2016, made in W.P.No.20772 of 2016.

For Petitioner : Mr.M.Gnanasekar

For Respondents : Mr.R.Thiyagarajan, SC
for Mr.P.T.Ramkumar

ORDER

(Order of this Court was delivered by **S.MANIKUMAR, J.**)

On 24.10.2016 in W.P.No.20772 of 2016, we set aside the order of transfer, dated 25.08.2015. We further directed respondents 1 to 5 therein, to restore the petitioner, within two weeks, from the date of passing of the order. Contending inter alia that the abovesaid order has not been obeyed, the present contempt petition has been filed.

2. On receipt of statutory notice issued on 10.08.2017,

<http://www.judis.nic.in> Mr.D.W.Samuel, Senior Divisional Personnel Officer, Southern Railway,

Chennai, 2nd respondent herein and Mr.Nareshkumar, Senior Section Engineer, Southern Railway, Arakkonam, 5th respondent herein, are appeared before this Court. Today, on the basis of the affidavit, filed by respondents 2 and 5, Mr.R.Thiyagarajan, learned Senior Counsel appearing for the respondents submitted that though there was a delay in giving effect to the order made in W.P.No.20772 of 2016, dated 24.10.2016, there was no intention to willfully disobey the orders of this Court.

3. Learned Senior Counsel appearing for the respondents further submitted that the writ petitioner was absent from duty from 04.02.2015 and pursuant to the orders of this Court in W.P.No.20772 of 2016, dated 24.10.2016, the writ petitioner was relieved on 24.05.2017 to Arakkonam. He joined duty at Arakkonam on 25.05.2017.

4. Learned Senior Counsel appearing for the respondents further submitted that necessary proceedings would be issued, duly treating the period from 23.11.2016 to 24.05.2017, as duty. He further submitted that the order, dated 20.04.2017, issued by the Department, was received by the writ petitioner on 25.05.2017 and

the petitioner joined duty on the same day. According to him, the writ

petitioner would be paid his pay and allowance accordingly.

5. On the basis of the averments made in the affidavit filed by respondents 2 and 5, learned Senior Counsel appearing for the respondents prayed to purge the alleged contemnors.

6. Per contra, Mr.M.Gnanasekar, learned counsel for the petitioner submitted that when an order of transfer, dated 25.08.2015, has been set aside of this Court, the petitioner is entitled to backwages, from the date of transfer.

7. By way of reply, Mr.R.Thiyagarajan, learned Senior Counsel appearing for the respondents submitted that when the writ petitioner was absent from duty from 04.02.2015, the said prayer need not be granted.

8. However, when attention of the date of disposal of the writ petition, was brought to the notice, Mr.R.Thiyagarajan, learned Senior Counsel appearing for the respondents submitted that pay and allowance be directed to be determined and paid from 24.10.2016, the date on which, the writ petition came to be disposed of.

9. We have gone through the affidavit filed by respondents 2 and 5 and accepted their explanations.

10. In view of the above, period between 24.10.2016 and 24.05.2017, would be treated as duty and that the petitioner would be paid his pay and allowance, for such period. As regards pay and allowance from 04.02.2015, there is a dispute that the petitioner was absent from duty, from the said date.

11. The respondents are directed to pass appropriate orders, for the abovesaid period, after affording a reasonable opportunity to the writ petitioner. For the reasons, stated supra, the contempt petition is disposed of. Officers present here, are directed to process the same. No costs.

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(S.M.K., J.) (N.A.N., J.)

14.09.2017

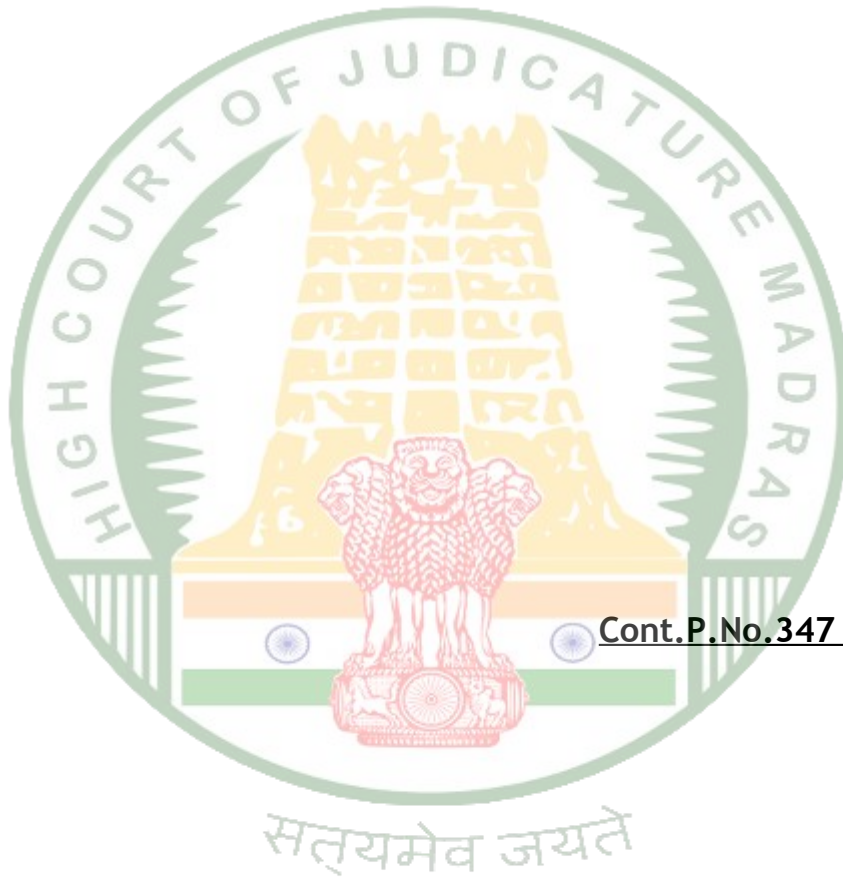
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S.MANIKUMAR, J.
AND
N.AUTHINATHAN, J.

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