

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **13.04.2017**

CORAM:

THE HONOURABLE MR.JUSTICE **K.K.SASIDHARAN**
AND
THE HON'BLE MR.JUSTICE **M.V.MURALIDARAN**

Cont.P.No.2121 of 2016

Viswanathan Petitioner

Vs.

Arunendra Kumar
Chairman,
Railway Board,
Rail Bhavan,
New Delhi - 110 001. Respondent

Petition filed under Section 11 of the Contempt of Courts Act to punish the respondent for wilfully and deliberately violated the order of this Hon'ble Court passed in W.P.No.25943 of 2013 dated 28.10.2013.

For Petitioner :Mr.D.Muthukumar

For Respondent :Mr.V.Radhakrishnan
Senior Counsel
for Mr.M.Udhayakumar

O R D E R

The petitioner filed this contempt petition alleging disobedience of the order passed by this Court dated 28 October, 2013 in W.P.No.25943 of 2013.

2. The substantial issue raised by the petitioner before this Court in W.P.No.25943 of 2013 pertains to the incompetency of the General Manager, Southern Railway to impose punishment. According to the petitioner, the Railway Board alone is empowered to impose punishment of compulsory retirement and as such, the order passed by the General Manager, was legally not sustainable.

3. This Court taking into account the contentions taken by the petitioner directed the Railway Board to pass a fresh order in the light of Rule 64(1) of the Railway Services Pension Rules, 1993.

4. In fact, the Railway Board has passed an order even during the pendency of the writ petition in W.P.No.25943 of 2013, which was not brought to the notice of the Court. It was only when the contempt petition was filed, the learned Senior Counsel for the Railways produced a copy of the order passed by the Railways to substantiate his contention that the order passed by the Division Bench has been substantially complied with.

5. When we have pointed out to the learned Senior Counsel, as to how it would be possible for the Railways to produce a copy of the order at this point of time, without producing the same before the writ court when the matter was seized of by the Court, the learned Senior Counsel submitted that he would advise the railways suitably.

6. When the contempt petition was taken up for consideration today, the learned Senior Counsel for the Southern Railways produced a copy of the order passed by the Railway Board, dated 7 April 2017 pursuant to the direction given by this Court in W.P.No.25943 of 2013.

7. The learned counsel for the petitioner contended that the Railways have not passed orders taking into consideration the direction given by this court, by order dated 28 October 2013 in W.P.No.25943 of 2013. It is his contention that there is a specific direction to consider the fixation of terminal benefits to the petitioner in accordance with the order passed in W.P.No.25943 of 2013. In short, it is the contention of the petitioner that notwithstanding the direction

given by the writ court in W.P.No.25943 of 2013, terminal benefits were not paid.

8. There is no question of considering the legality and correctness of the order passed by the Railway Board, dated 7 April 2017 in the present contempt petition, which was filed on allegation that the direction has not been complied. We therefore give liberty to the petitioner to challenge the order, if he is still aggrieved.

9. The contempt petition is closed with the above observation.

SD/
JOINT REGISTRAR(OS) I/C

//Certified to be true copy//

Dated at Madras this the day of 2016.

COURT OFFICER(O.S.)

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SM/CO/27/04/2017

To

Arunendra Kumar
Chairman,
Railway Board,
Rail Bhavan,
New Delhi - 110 001

One CC to Mr.M.Udhayakumar, Advocate, SR.5283/17