

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2017

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

Contempt Petition No.2394 of 2016

A.Arumugam

...Petitioner

Vs.

Mr.V.Chandrasekar,
Superintending Engineer,
Tamil Nadu Electricity Board,
Nagai Electricity Distribution Circle,
Nagapattinam.
...Respondent

Prayer : Contempt Petition filed under Section 11 of the Contempt of Courts Act, to punish the respondent herein for willful disobedience of the order of this Hon'ble Court made in W.P.No.5682 of 2008 dated 05.03.2013.

For Petitioner : M/s.L.Chandrakumar

For Respondent : Mr.R.Varalakshmi

O R D E R

The contempt petition is filed seeking implementation of the order dated 05.03.2013 passed by this Hon'ble Court in W.P.No.5682 of 2008, which is extracted hereunder:

"2.It is agreed between the parties, that the dispute raised in this writ petition is squarely covered by the decision of this Court in W.P. (MD).No.7064 of 2007 (N.Paramasivam Vs. The

Superintending Engineer, TNEB, Trichy) decided on 28.11.2007.

3. Consequently, this writ petition is allowed in the same terms. The impugned order, proposing to terminate the services of petitioner is ordered to be set aside with liberty to the respondent to pass afresh order in the light of Board Proceedings No. (Per) B.P. (F.B.) No. 27 dated 07.11.2002 and the decision of the Hon'ble Division Bench of this Court in W.P. Nos. 4941, 8575 of 2001, etc., batch decided on 19.12.2002. No costs."

2. On a perusal of the order passed by this Court, it is seen that the order of termination issued to the writ petitioner was set aside. However, liberty was granted to the respondent to pass a fresh order in the light of Board Proceedings No. (Per) B.P. (F.B.) No. 27 dated 07.11.2002 and the directions of the Hon'ble Division Bench of this Court in W.P. Nos. 4941, 8575 of 2001, etc. batch decided on 19.12.2002.

3. The learned counsel appearing for the writ petitioner made a submission that the writ petitioner was reinstated pursuant to the orders of this Court. However, the other service benefits were not extended, in spite of the fact that this Court has granted liberty to the respondent to pass orders in the light of the Board Proceedings cited above. At the outset, the learned counsel is of the opinion that all the consequential

directions issued by this Court on 05.03.2013. This Court is unable to agree with the contention as advanced by the learned counsel for the petitioner, in view of the fact that the order of termination alone was set aside and as the petitioner was already reinstated in service, this Court has granted liberty to pass a fresh order in the light of the Board Proceedings.

4. Thus, it is the discretion of the competent authorities to consider all these aspects and pass an order if they decide to do so. The liberty granted to the respondent cannot be construed as a direction issued by this Court. A distinction is to be drawn between granting liberty and issuing direction. If a liberty is granted to the respondent, then the discretion lies to the wisdom of the competent authorities. If a direction is issued by this Court, then the competent authorities have no option, but to implement the order in terms of the order which is in question. Thus, the legal position in this regard is unambiguous that granting of liberty will not confer any right on the writ petitioner to claim benefits as a whole and the discretion lies to the respondents in this regard. In case of a direction, the respondents have no option, but to implement in its terms and conditions.

5.In this view of the matter, no further adjudication is required in this contempt petition and the writ petitioner has already been reinstated and is continuing in service. Accordingly, the contempt petition stands closed.

kak

SD/-
ASSISTANT REGISTRAR (COMM.CASES)

//Certified to be true copy//

Dated at Madras this the day of 2018.

COURT OFFICER (O.S.)

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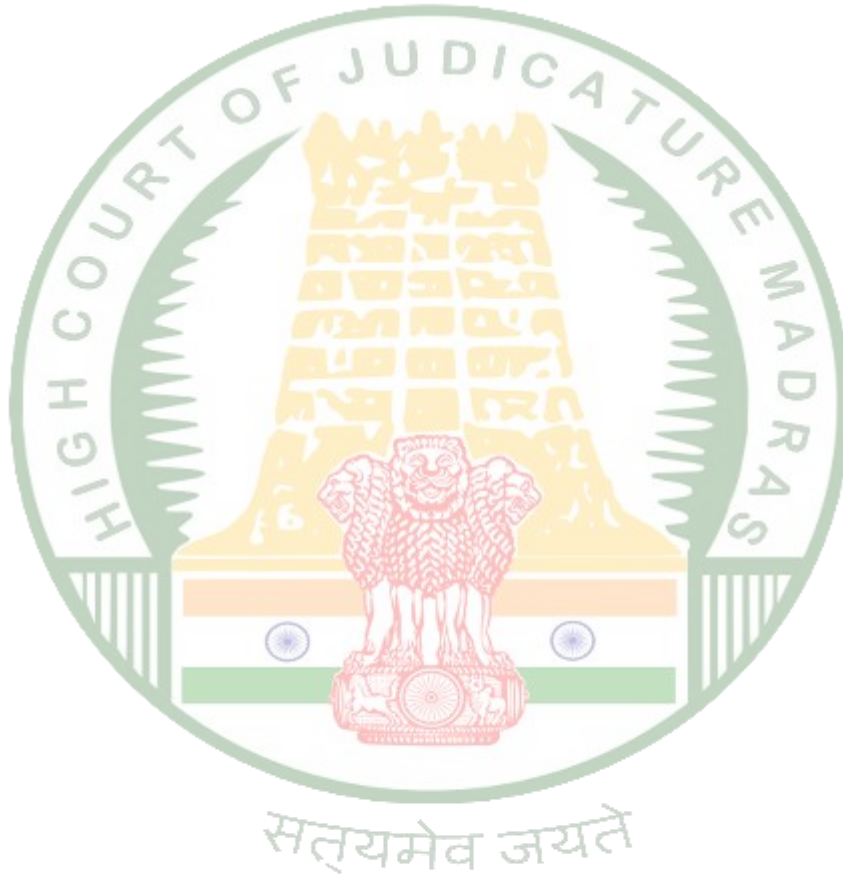
one cc to Mr. L. Chandrakumar, SR.No.12456.

To

The Superintending Engineer,
Tamil Nadu Electricity Board,
Nagai Electricity Distribution Circle,
Nagapattinam.

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