

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Contempt Petition No.1546 of 2018

T.Datchinamurthy ... Petitioner

-vs-

Mr.Venkatesan
Superintending Engineer
Tamil Nadu Generation and Electricity
Distribution Corporation Ltd.,
Tamil Nadu Electricity Board
Chennai Electricity Distribution Circle/South-II
K.K.Nagar, Chennai ... Respondent

Petition under Section 11 of the Contempt of Courts Act, 1971 praying to punish the respondent for wilful disobedience of the order of this Court dated 23.03.2018 made in W.P.No.6807 of 2018.

For Petitioner :: Mr.C.Prakasam

For Respondent :: Mr.P.R.Dhilip Kumar
Standing Counsel

ORDER

This Court with all deep anguish is unable to accept the oral explanation placed before this Court by the contemnor Mr.K.Venkatesan, the Superintending Engineer, TANGEDCO Ltd., CEDC/South-II, K.K.Nagar, Chennai, because only a simple direction was issued to the contemnor to consider the representation of the petitioner dated 20.9.2017, on merits. When the petitioner was placed under

suspension by order dated 20.3.2009, challenging the prolonged suspension keeping him out of office for a period of nine long years, although he reached the age of superannuation on 30.6.2015, finding no response on his representation dated 20.9.2017, came to this Court with W.P.No.6807 of 2018 seeking a mandamus or direction to the Superintending Engineer, TANGEDCO Ltd., CEDC/South-II, K.K.Nagar, Chennai to consider his representation for disbursement of the retiral benefits viz., encashment of earned leave and encashment of unearned leave on private affairs.

2. The learned counsel for the petitioner submitted that when a direction was issued by this Court on 23.3.2018 directing the respondent/contemnor to consider the representation of the petitioner dated 20.9.2017 seeking for disbursement of the proceeds towards encashment of earned leave and unearned leave on private affairs as on the date of his retirement and pass appropriate orders, he has wrongly, in an effort to avoid and delay the payment of the aforementioned benefits to the petitioner, without complying with the order, went in appeal before the Division Bench by filing writ appeal, which was also dismissed on 19.12.2018. That shows that the contemnor has successfully delayed the payment. As the petitioner sought for a simple direction which was granted by this Court to consider his representation and it has been settled by this

Court in umpteen orders that even if an employee who is facing departmental proceedings for major penalty, shall be entitled to receive the retiral benefits like encashment of earned leave and unearned leave on private affairs, the respondent/contemnor has no option except to settle the aforementioned benefits. However, even without knowing the said legal position, the contemnor has delayed the payment, as a result he has violated the Court's order also.

3. This Court issued notice directing the contemnor to appear before this Court and explain as to why action should not be initiated against him for not complying with the order passed by this Court and also for unnecessarily going before the appellate Court by filing writ appeal against an order directing him to consider the representation of the petitioner. Pursuant thereto, Mr.K.Venkatesan, the Superintending Engineer, TANGEDCO Ltd., CEDC/South-II, K.K.Nagar, Chennai appeared today and tendered his unconditional apology pleading ignorance of the settled legal position.

4. The learned standing counsel for the respondent several times pleaded before this Court that the respondent is well advised to comply with the order with all seriousness without giving any room for anyone to come to this Court in future. He has also submitted that the benefits sought for by the petitioner were also paid and he

has also received the same. Recording his statement, this contempt petition stands closed.

SD/-

ASSISTANT REGISTRAR (COMM.CASES)

ss

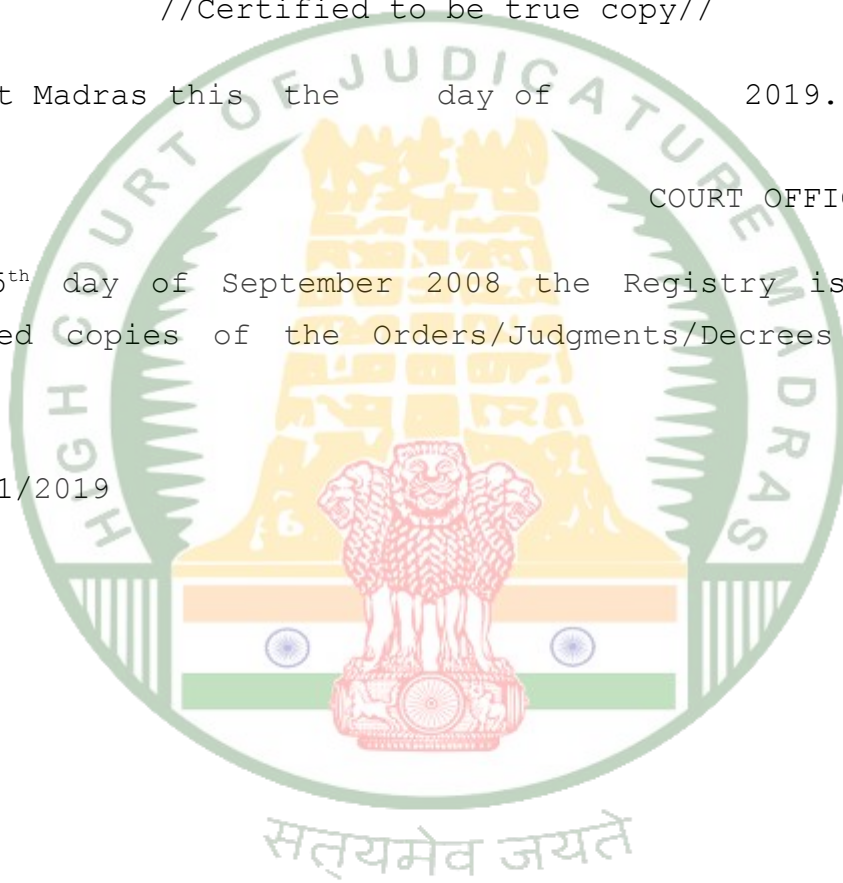
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Dated at Madras this the day of 2019.

COURT OFFICER (O.S.)

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Ps/23/01/2019



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