

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.8878 of 2018

M.Manoharan

.. Petitioner

-vs-

1. The Advocate General,
Madras High Court,
Chennai-104.
2. Thiru Atulya Misra, I.A.S.,
Former Principal Secretary/
Commissioner of Revenue Administration,
Presently working as Principal Secretary,
Revenue Department,
Fort Saint George,
Secretariat, Chennai-9.
- 3.Thiru S.Palanisamy, I.A.S.,
Former District Collector,
Nagapattinam, now working as
Deputy Secretary,
Animal Husbandry and Veterinary Department,
Fort St. George,
Secretariat, Chennai-9.

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records from the 2nd respondent herein and to quash the impugned order passed by the 1st respondent in Criminal Contempt Petition No.4 of 2017 dated 04.12.2017 against the 2nd respondent Proceedings SER/3(3)/19706/2013 dated 18.2.2016 is against the 'due course of justice' in Orders passed by this Court in W.P.No.22402/2011 dated 21.2.2012, Contempt Petition No.724/2013 dated 31.10.2013 and to convert this petition as Criminal Contempt for getting 'due course of justice'.

For Petitioner :: Ms.D.Malarvizhi

For Respondents :: ...

ORDER

This Writ Petition is directed against the order passed by the Advocate General of Tamil Nadu dated 4.12.2017 in Contempt Petition No.4/2017 refusing to grant consent to initiate proceedings for criminal contempt against the respondents.

2. Learned Counsel appearing for the petitioner submitted that when the petitioner has obtained an order in W.P.No.22402/2011 dated 21.02.2012 directing the respondent therein to reinstate the petitioner in service in the post of Revenue Inspector and including his name in the panel for promotion at the appropriate place and to grant him promotion w.e.f. the date on which his juniors were promoted with a further observation that it will not preclude the respondents from initiating any departmental proceedings against the petitioner on the basis of the materials placed by the Vigilance and Anti Corruption, the said order has not been duly complied with. Therefore, the petitioner has approached the Advocate General of Tamil Nadu seeking his consent to initiate criminal contempt proceedings.

3. The learned Advocate General of Tamil Nadu declined to grant consent for institution of proceedings for criminal contempt against the respondents on the ground that the respondents have not acted in a manner to scandalize or prejudice or interfere or tend to obstruct the due process of initiating any judicial proceedings.

4. The learned Counsel for the petitioner submitted that although the petitioner was given posting as Revenue Inspector, the further direction to include his name in the panel for promotion to the post of Deputy Tahsildar in the appropriate place w.e.f. the date on which his juniors have been promoted, has not been complied with. Therefore, that would amount to criminal contempt.

5. But, paragraph Nos.10 and 11 in the order passed by this Court in Contempt Petition No.724 of 2013 dated 31.10.2013 will show that no criminal contempt is made out as could be seen from Section 2(c) of the Contempt of Court Act, 1971. It is true that the petitioner was given posting as Revenue Inspector. Secondly, when the petitioner also came to this Court with Contempt Petition No.724/2013 to punish the respondents for disobedience of the order passed by this Court in W.P.No.22402/2011 dated 21.2.2012, this Court by order dated 31.10.2013 after going through the contentions made by both the parties have closed the Contempt in the following way :

'9. But, the same being only a procedural requirement, I do not think that a contempt is made out. Once it is submitted that the petitioner has been reinstated and he has also started working in the place and had gained at least one promotion, it is futile to contend that an order under Rule 17e) (6) had not so far been passed.

10. Therefore, the contempt petition is closed, leaving it open to the respondents to complete the formalities with regard to the promotion and placement above the juniors.'

6. Therefore, when this Court has already given a finding that the petitioner has been reinstated and he has been working in the place and also given one promotion, it is futile to contend that the order under Rule 17 (e) (6) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, had not so far been passed and finally, the contempt petition has been closed. Therefore, the approach made by the petitioner seeking consent from the learned Advocate General to initiate proceedings against the respondents for criminal contempt is only misconceived.

7. In the result, the Writ Petition fails and the same is accordingly dismissed. No costs.

Sd/-

Assistant Registrar(CS III)

//True copy//

Sub Assistant Registrar

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To

1. The Advocate General,
Madras High Court,
Chennai-104.

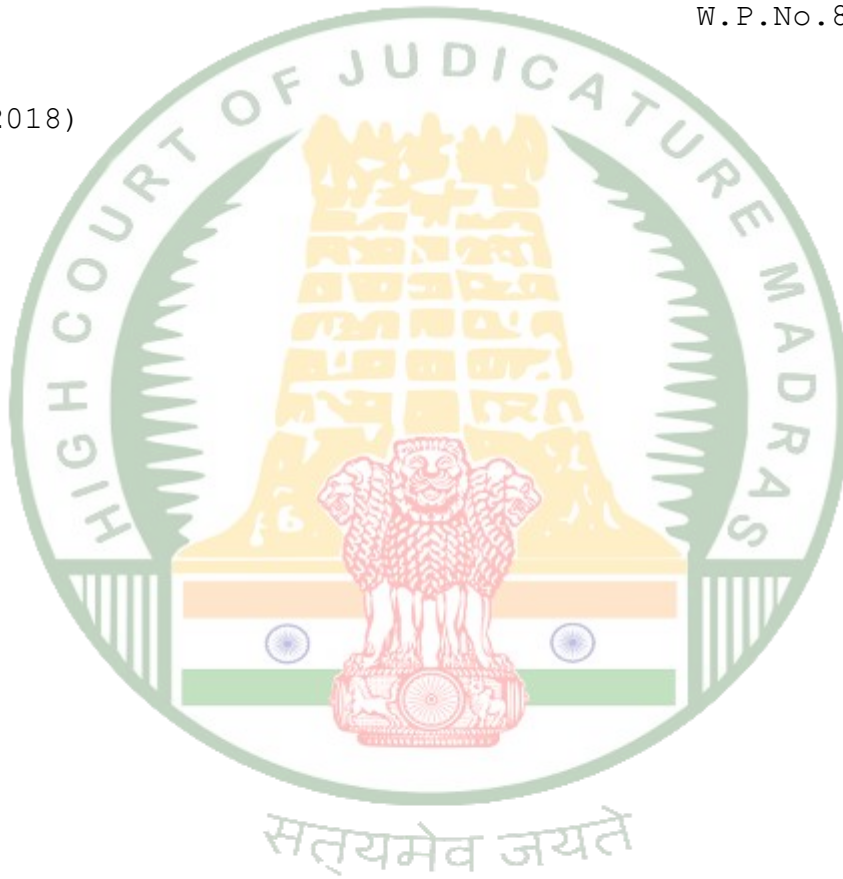
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Former District Collector,
Nagapattinam, now working as
Deputy Secretary,
Animal Husbandry and Veterinary Department,
Fort St. George,
Secretariat, Chennai-9.

+1cc to Mr.D.Malarvizhi, Advocate SR.No.277804
+1cc to Government Pleader SR.No.27309

W.P.No.8878 of 2018

RR(CO)
GN(08/05/2018)



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