

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2019

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

Cont.P.No.338 of 2017

Mrs.Vijaya Murugesan

... Petitioner

Versus

1.Thiru R.Pitchai,
The Director,
Directorate of Matriculation Schools,
D.P.I. Campus, Egmore,
Chennai-600 008.

2.Thiru.P.Sathyamoorthy,
The Secretary,
The Kongu Vellalar Institute of Technology Trust,
Kongu Engineering College Campus,
Perundurai, Erode-638 052.

... Respondents

Contempt Petition filed under Section 11 of the Contempt of Court Act to punish the first respondent for wilful disobedience of the order dated 12.10.2015 made in W.P.No.32460 of 2015.

For Petitioner : M/s.P.M.Bakthavatchalam

For Respondents : Mr.Karthikeyan,
Special Govt. Pleader for R1
Mr.V.Balamuruganae for R2

O R D E R

The petitioner, alleging non-compliance of the order dated 12.10.2015 made in W.P.No.32460 of 2015 has filed this contempt petition.

2. The learned counsel appearing for the petitioner has invited the attention of this Court to paragraph No.5 of the affidavit filed in support of this contempt petition and would submit that the petitioner has not received the following benefits:

- 1. Gratuity for his period of service*
- 2. Provident Fund contribution from July, 2006 to March, 2008*
- 3. Salary for vacation 7 months (i.e., May, 2014 to November, 2014)*
- 4. Unavailed Casual Leave Encashment*
- 5. Salary for the days he worked extra as per the Trust Norms*
- 6. Original Certificates and Original Service Certificate.*

It is brought to the knowledge of this Court that the petitioner, during the pendency of this Contempt Petition, has received the original certificates/testimonials. The learned counsel appearing for the petitioner would submit that appropriate direction may be issued to the respondents/contemnors to comply with the petitioner's request as stated in paragraph No.5 of the affidavit filed in support of this Contempt Petition.

3. Mr.V.Balamuruganae, learned counsel appearing for the second respondent would submit that insofar as the payment of Gratuity is concerned, the petitioner has to execute No Due Certificate and sign in the Register and since she did not turn up, it has not been paid. Insofar as payment of Provident Fund Contribution from July 2006 to March 2008 is concerned, the petitioner was made permanent from the year 2008 and from that period, the contribution for the Provident Fund has been done and necessary communication was also sent to the EPFO and they had also recorded full and final settlement and the said fact can also be verified on perusal of the EPFO website. It is the further submission of the learned counsel appearing for the second respondent that the salary for vacation period of 7 months is seriously disputed and under any circumstances the petitioner cannot claim for unavailed casual leave and insofar as the salary for the period for which she worked extra, the same is also disputed and this Court, in exercise of it's contempt jurisdiction, may not issue any positive direction and the remedy open to the petitioner is to avail the Common Law remedy for adjudication of disputed facts.

4. The learned counsel appearing for the petitioner would submit that insofar as receiving the payment of Gratuity is concerned, she may be permitted to execute a

Special Power of Attorney in favour of her husband, namely S.Murugesan and on his appearance and production of the Special Power of Attorney, the second respondent/contemnor may be directed to settle the Gratuity amount. Insofar as the disputed claims are concerned, she may be granted liberty to avail the Common Law remedy.

5. Mr.Karthikeyan, learned Special Government Pleader appearing for the first respondent would submit that necessary communication has also been sent to the second respondent/institution to comply with the order passed by this Court.

6. This Court has considered the rival submissions and also perused the entire materials placed before it.

7. It is brought to the knowledge of this Court that pendency of this Contempt Petition, original certificates/testimonials have been returned to the petitioner and insofar as the payment of Gratuity is concerned, she is at liberty to execute a Special Power of Attorney in favour of her husband and on his production of the same before the second respondent institution and getting necessary endorsement, the gratuity amount to be settled forthwith. Insofar as other disputed claims are concerned, the petitioner is at liberty to invoke the

Common Law remedy.

8. This Contempt Petition stands disposed of accordingly.

SD/-
ASSISTANT REGISTRAR (COMM.CASES)

JVM

//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER (O.S.)

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PS/21/01/2019

To

1. The Director,
Directorate of Matriculation Schools,
D.P.I. Campus, Egmore,
Chennai-600 008.
2. Thiru.P.Sathyamoorthy,
The Secretary,
The Kongu Vellalar Institute of Technology Trust,
Kongu Engineering College Campus,
Perundurai, Erode-638 052.