

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 05.10.2018

Orders Delivered on : 26.10.2018

CORAM :

THE HONOURABLE Mr.JUSTICE R.SUBBIAH

Contempt Petition No.344 of 2017

and

Sub.A.No.466 of 2018

A.Arumugam ... Petitioner

Vs.

1.Srimathi Sabitha,
Secretary,
School Education Department,
Government of Tamil Nadu,
Fort St.George,
Chennai-600 009.

2.Mr.S.Kannappan,
Director of School Education,
College Road,
Chennai-600 006.

3.Mrs.A.Anitha,
Chief Education Officer,
Saidapet,
Chennai-15.

4.Mr.R.Edision,
District Educational Officer (East),
Chennai-600 002.

5.Mr.R.Moorthy,
Secretary,
Vallal SI Alagarsamy Chettiar
Higher Secondary School,
Royapuram, Chennai-600 030. ... Respondents

Petition filed under Section 11 of the Contempt of Court Act, to punish the respondents for willful disobedience and non-compliance of the order dated 03.11.2016 in W.P.No.30430 of 2014 passed by this Court.

For Petitioner : Mr.C.Johnson

For Respondent : Mr.A.Kumar, AAG-X
assisted by Mr.A.Rajaperumal, AGP

ORDER

This Court by order dated 03.11.2016 allowed the writ petition in W.P.No.30430 of 2014 and the operative portion of the order reads as follows:-

"16.In the light of the above judgment of the Supreme Court, I am of the considered view that the prayer of the writ petitioner has to be allowed. Accordingly, the writ petition is allowed. Within a period of two weeks from the date of receipt of a copy of this order, the fifth respondent-School is directed to send a proposal for pay fixation by considering his emoluments prior to his accident on 01.12.2000 and on par with his juniors, in accordance with necessary emoluments, increments, selection/special grades and grant of notional promotion, etc. On receipt/consideration of such a proposal from the fifth respondent-school, the respondents 1 to 4 shall act in accordance with the provisions of Section 47 of the said Act and also in consonance with the above rulings of the Supreme Court, by providing him necessary salary after due computation/adjustment wherever required, within a period of four weeks thereafter. No costs. The Miscellaneous Petitions are closed."

2.Now, the present contempt petition has been filed by the petitioner alleging non-compliance of the said order.

3.The learned counsel for the petitioner would submit that arrears of emoluments due to the petitioner from 01.12.2000 would come to Rs.21 lakhs, but the 5th respondent has not sent the proposal to the official respondents till date for payment of the said arrears. Therefore, the order of this Court has not been fully complied with.

4.But, the submission of the learned counsel for the petitioner was denied by the learned Additional Advocate General. He submitted that pursuant to the order of this Court, 5th respondent sent a proposal. The pay arrears including increment amounting to Rs.9,39,115/- less taxation i.e, Rs.8,62,449/- was paid to the petitioner on 01.08.2018. A sum of Rs.2,35,525/- towards Teachers Provident Fund (TPF) was paid to the petitioner on 01.10.2015. Special Provident Fund of Rs.34,724/- was paid to the petitioner on 09.03.2018. It is further submitted by the learned Additional Advocate General that, since the petitioner died pending the contempt petition, if the wife of the petitioner Mrs.Jayabharathi signs the proposal forms, a sum of Rs.21,79,852/-, which includes Gratuity, will be paid to her. But, she has not signed the papers till date, for the reasons best known to her. Various reminder letters have been sent to her. The petitioner is entitled to 270 days medical leave with pay for the service rendered by him from 1986 to 2000, which the petitioner had availed/exhausted the same by the year 1998 itself. During regularisation of the petitioner's service, the period between 01.12.2000 and 13.10.2009 (during which no work was done by the petitioner) was treated as Medical Leave without pay as per existing Rules and regulations. Further, the petitioner himself has stated in all letters submitted for Medical leave during the said period, that leave without pay may be granted. Now, the petitioner cannot go back on his stand taken earlier as per the principle of estoppel. Thus, the learned Additional Advocate General submitted that the order of this Court has been duly complied with by the respondents.

5.However, the learned counsel for the petitioner submitted that the petitioner is entitled to the following amounts:-

i)Gratuity : Rs.8,79,620/-

ii)Pension arrears from 01.03.2015 ending 02.07.2017 (date of death of the petitioner) : Rs.13,00,232/-

iii)Family Pension arears from 03.07.2017 ending (due to wife or writ petitioner) 30.09.2018 : Rs.03,11,920/-

iv)Emoluments due to the petitioner from 01.12.2000 ending 13.10.2009 : Rs.20,27,791/-.

In total, a sum of Rs.45,19,563/- is due to the petitioner. But, the petitioner has not been paid with arrears amount. Thus, the learned counsel for the petitioner submitted that the order of this Court has not been fully complied with.

6.Heard the submissions made on either side and perused the materials available on record.

7.It is seen that pursuant to the order of this Court, the 5th respondent has sent the pension proposal and the emoluments have been disbursed the petitioner. If there is any dispute with regard to the payment of emoluments and arrears amounts, it is for the petitioner/his legal heirs to work out their remedy in the manner known to law and not in this contempt petition. Hence, this Court does not find any contempt or violation of the order of this Court, on the part of the respondents. Accordingly, this contempt petition is closed. Consequently, connected sub-application is also closed.

26.10.2018

Index : Yes / No

Internet : yes / No

ssv

R.SUBBIAH, J.,
ssv

Pre-delivery order
in

Cont.P.No.No.344 of 2017
and
Sub.A.No.466 of 2018

26.10.2018