

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.A.No.2391 of 2018

M.MANOCHARAN

Appellant/Petitioner

Versus

1 THE ADVOCATE GENERAL
HIGH COURT OF MADRAS
CHENNAI-600 104

2 THIRU.ATULYA MISRA I.A.S
FORMER PRINCIPAL SECRETARY/
COMMISSIONER OF REVENUE
ADMINISTRATION
PRESENTLY WORKING AS
PRINCIPAL SECRETARY
REVENUE DEPARTMENT
FORT ST. GEORGE SECRETARIAT
CHENNAI 600 009.

3 S.PALANISAMY I.A.S.
FORMER DISTRICT COLLECTOR NAGAPATTINAM
NOW WORKING AS DEPUTY SECRETARY
ANIMAL HUSBANDRY AND
VETERINARY DEPARTMENT
FORT ST. GEORGE
SECRETARIAT CHENNAI 600 009

Respondents

Prayer: Writ Appeal filed filed under Clause 15 of the Letters Patent against the order dated 12.4.2018 passed in W.P.No.8878 of 2018 on the file of this court.

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 18.02.2016 is against the "due course of justice" in orders passed in Honble High Court in W.P No. 22402/2011 dated 21.02.2012 Contempt Petition No. 724/2013

dated 31.10.2013 and to convert the petition as Criminal Contempt for getting due course of justice.

For appellant : Mr.D.Malarvizhi

For respondents : Mr.P.S.Sivashanmugasundaram
Special Government Pleader

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the appellant and Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader, who takes notice on behalf of respondents.

2. The writ appeal has been filed by the writ petitioner, challenging the order passed by the learned Single Judge, dismissing the writ petition.

3. The issue revolves around the claim of the appellant/writ petitioner for reinstatement in service and promotion on par with his juniors. In this regard, it is relevant to extract para 5 and 6 of the order passed by the learned Single Judge, which would give some clarity:-

"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."

4. In view of the above, nothing survives for consideration in this writ appeal as the matter has already been considered in favour of appellant/writ petitioner, however, pursuant to the same contempt petition was also filed and that contempt petition was also closed after examining as to whether there is any disobedience in complying with the order passed by this court. Apart from that regarding promotion and other things, it is open to the appellant/writ petitioner to submit a representation to the authorities concerned and if he is entitled to the same, his case shall be considered in accordance with law. The writ appeal is disposed of accordingly. No costs.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

ssk.

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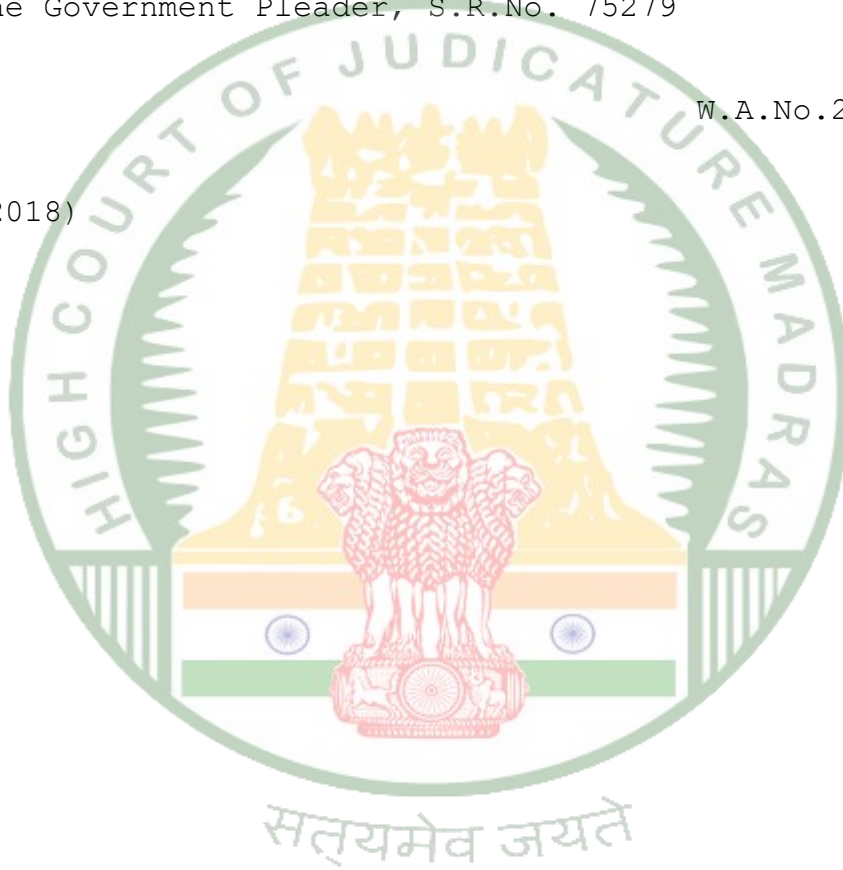
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+lcc to Mr.D.Malarvizhi, Advocate, S.R.No. 76027
+lcc to the Government Pleader, S.R.No. 75279

W.A.No.2391 of 2018

RV(CO)
GN(27/11/2018)



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