

Cont.Petition.Nos.499, 675 & 762 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2020

CORAM:

THE HONOURABLE MS.JUSTICE S.M.SUBRAMANIAM

Contempt Petition.Nos.499, 675 & 762 of 2019

Cont.P.No.499 of 2019

A.Babu

... Petitioner

Vs.

1. Mr.Harmander Singh, I.A.S.,
Secretary to Government,
Municipal Administration & Water Supply
Department,
Secretariat, Fort St.George,
Chennai 600 009.

2. Dr.D.Karthikeyan,
The Commissioner of Municipal Administration,
Chepauk, Chennai - 600 005.

3. Mr.J.Saravanakumar, I.A.S.,
Commissioner,
Coimbatore Municipal Corporation,
Coimbatore - 641 001.

...Respondents

Cont.P.No.675 of 2019

S.Kalavathy

... Petitioner

Vs.

Mr.Harmander Singh, I.A.S.,
Secretary to Government,
Municipal Administration & Water Supply
Department,
Secretariat, Fort St.George,
Chennai 600 009.

... Respondent

Cont.P.No.762 of 2019

R.Bhuvaneswari

... Petitioner

Vs.

Mr.Harmander Singh, I.A.S.,
Secretary to Government,
Municipal Administration & Water Supply
Department,
Secretariat, Fort St.George,
Chennai 600 009.

... Respondent

Common Prayer : This Contempt petition is filed under Section 11 of the Contempt of Court Act, praying to punish the respondent for his willful disobedience in not complying with the order of this Hon'ble Court dated 11.09.2018 made in W.P.No.27561 of 2014 & batch.

For Petitioners : Mr.T.Sellapandian
[in Cont.P.Nos.675 & 762/2019]
Mr.R.Neelakandan
[in Cont.P.No.499/2019]

For Respondents : Mr.A.N.Thambidurai
Spl.G.P
[for all Cont.Petitions]
Mr.R.Shivakumar [for R3]
[in Cont.P.No.499/2019]

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ORDER

The Contempt petitions had filed to punish the respondents for their willful disobedience of the orders passed in WP.No.27561 of 2014.

2. Facts adjudicated in the lis was elaborate. However, for the purpose of deciding the contempt application, all those facts became unnecessary as this Court is bound to consider the complaint made by the petitioners regarding the willful disobedience of the orders of this Court dated 11.09.2018. This Court passed an order as under:-

"29. Such being the principles to be followed, the following orders are passed:-

(i) The Secretary to Government, Municipal Administration and Water Supply Department, Fort Saint George, Chennai-9, is directed to review the grant of relaxation in respect of all employees appointed in the cadre of Fitter and got further promotions/appointments by virtue of relaxations;

(ii) Such an exercise is to be done with reference to the cases of the writ petitioners as well as the case of Mr.T.Gnanavel in particular;

(iii) In the event of exercising the power of discretion, then the same must be exercised uniformly in the interest of public administration and by following the Rules in force;

(iv) In the event of taking decisions otherwise, then the same also to be implemented in respect of all the employees without any discrimination;

(v) The Secretary to Government, Municipal Administration and Water Supply Department, Fort Saint George, Chennai-9 is directed to conduct an enquiry in this regard in respect of grant of relaxation and if any malpractice or corrupt activities or influences are identified, then all suitable prosecutions and actions are to be initiated against the officials concerned, including the initiation of the disciplinary proceedings against them;

(vi) The Secretary to Government, Municipal Administration and Water Supply Department, Fort Saint George, Chennai-9, is directed to verify the genuinity of the Degrees obtained by all these writ petitioners at the time of reviewing their cases;

(vii) The said exercise shall be done by the Secretary to Government, Municipal Administration and Water Supply Department, Fort Saint George, Chennai-9, within a period of twelve weeks from the date of receipt of a copy of this order;

(viii) The orders passed in this regard shall be communicated to all the employees concerned."

3. With reference to the orders cited supra, the respective learned counsels appearing on behalf of the contempt petitioners solicited the attention of this Court

that, this Court directed the Secretary to Government,

Municipal Administration, Water Supply Department, to review the grant of relaxation in respect of all employees appointed in the cadre of Fitter, and got further promotions and appointments virtue of relaxation. Set of direction was issued in view of the fact that the benefit of relaxation was granted in favour of Mr.T.Gnanavel, who is a party to the litigation. The allegation was that, relaxation was granted in violation of the Rules and by extending favouritism to the said Mr.Gnanavel. This Court considered those aspects and directed the respondents to review the grant of relaxation, keeping in mind that in the event of granting relaxation to one employee, the said benefit is to be extended to all the similarly placed employees. Otherwise the exercise of power of relaxation became illegal and unconstitutional.

4. This Court again emphasized that power of relaxation is an exception. Rules to be followed scrupulously. Relaxation is to be granted exceptionally. Only in order to mitigate the injustice caused to any employee or group of employees, the Rule of relaxation can be invoked and not otherwise. Therefore, the Government must be cautious in exercising the power of relaxation, as the same would cause discrimination amongst the same set of

employees.

5. As far as the said direction is concerned, the learned Additional Advocate General submitted a reply by stating that, the similar benefit of relaxation was extended to other contempt petitioners also and they were further promoted and the proceedings were also placed before this Court. The spirit of order of this Court is that the power of relaxation is to be exercised by the Competent Authority uniformly in the interest of public administration and not to cause discrimination amongst the similar set of employees. In this regard, further directions are issued to conduct an enquiry and initiate all further actions. The genuinity of the decrees and the educational qualifications possessed by the respective parties to the litigations are also directed to be verified.

6. The learned Additional Advocate General made a submission that the educational qualifications as well as the certificates of the respective candidates were verified by the Competent Authority and after conducting an enquiry, an order was passed granting relaxation to the contempt petitioners enabling them to get promotion. However, the

contempt applications were filed by stating that Mr.Gnanavel was promoted to the further higher post and such a benefit is to be extended as consequential one to all the contempt petitioners. In this regard, this court directed the authority to conduct an enquiry and submit a report through the Competent Authorities. The complaint made is that whatever benefit extended to Mr.Gnanavel has to be extended to all the petitioners in the matter of grant of promotion.

7. During the pendency of the contempt petition, a committee was constituted by the respondents in order to go into the factual details as well as the service particulars of all the candidates as well as the orders earlier passed. The report of the first committee placed before this Court was not satisfactory and this Court raised various doubts regarding the manner in which the committee scrutinized the papers as well as the service particulars of the respective employees who all are before this Court.

8. The learned Additional Advocate General in view of the fact that the report of the first committee was ambiguous, took time for initiating further action. Thereafter an another committee was constituted to review

the entire compliance order issued in Government Letter dated 12.04.2019, regarding certain clarifications sought for by this Court in order dated 18.11.2019, made in these contempt petitions. Accordingly, the committee had gone in detail regarding the doubts and queries raised by this Court and submitted a report. This Court is not inclined to deal with the entire report as the present litigation is the contempt proceedings and all those factual details regarding the individuals are unnecessary and if at all any grievances arises from and out of the factual details, it is for the parties to approach appropriate forum for the redressal of their grievances.

9. However, perusal of the entire report reveals that the grievances to these contempt petitioners emerged from and out of the promotion order granted in favour of Mr.Gnanavel in the year 1991 as well as in the year 1995 are considered. The said fact was found in the report wherein it is stated that the Government order in G.O.(4D) No.9, MAWS Department, dated 08.10.1991, appointing Mr.Gnanavel as Overseer was made in the year 1995.

10. The learned counsel for one contempt petitioner brought to the notice of this Court that the writ petition

was filed in the year 1991 itself and in that writ petition, all the affected persons are the parties. However, this Court cannot adjudicate all those details in these contempt petitions as the contempt proceedings ought to be confined with reference to the directions issued by this Court and to ensure the compliance of the said order.

11. At the outset, the report of the committee reveals that the grievances are long pending as far as the contempt petitioners are concerned. The initial promotion was granted in the year 1995. However, the subsequent proceedings, the contempt petitioners have not pursued vigilantly and even if they have pursued vigilantly, they could not able to redress their grievances and now after a lapse of more than 29 years, this court cannot interfere with the promotions given to Mr.Gnanavel in the year 1995, more specifically, in the contempt proceedings. If the petitioners are interested in pursuing their remedies they are at liberty to do so for the redressal of their grievances in the manner known to law. However, with reference to the orders passed by this Court on 11.09.2018, the respondents have constituted a first committee and the report submitted by the said committee was not satisfactory and the subsequent committee was constituted and the report

of the second committee is placed before this Court and as per the report, several facts are placed and the claims of these petitioners were considered by the committee and if any grievance exist from and out of the report or any other grievances exist in respect of the further promotion to the petitioners, it is left open to them to adjudicate their grievances in the manner known to law.

12. As far as the contempt petition is concerned, this Court is of an opinion that there is no willful contempt as such in respect of the order dated 11.09.2018 and as far as the merits are concerned, it is left open to the parties to adjudicate the same in the manner known to law. Accordingly, these contempt petitions stand dismissed.

SD/-

ASSISTANT REGISTRAR (COMM.CASES)

pkn

//Certified to be true copy//

Dated at Madras this the day of 2020.

COURT OFFICER (O.S.)

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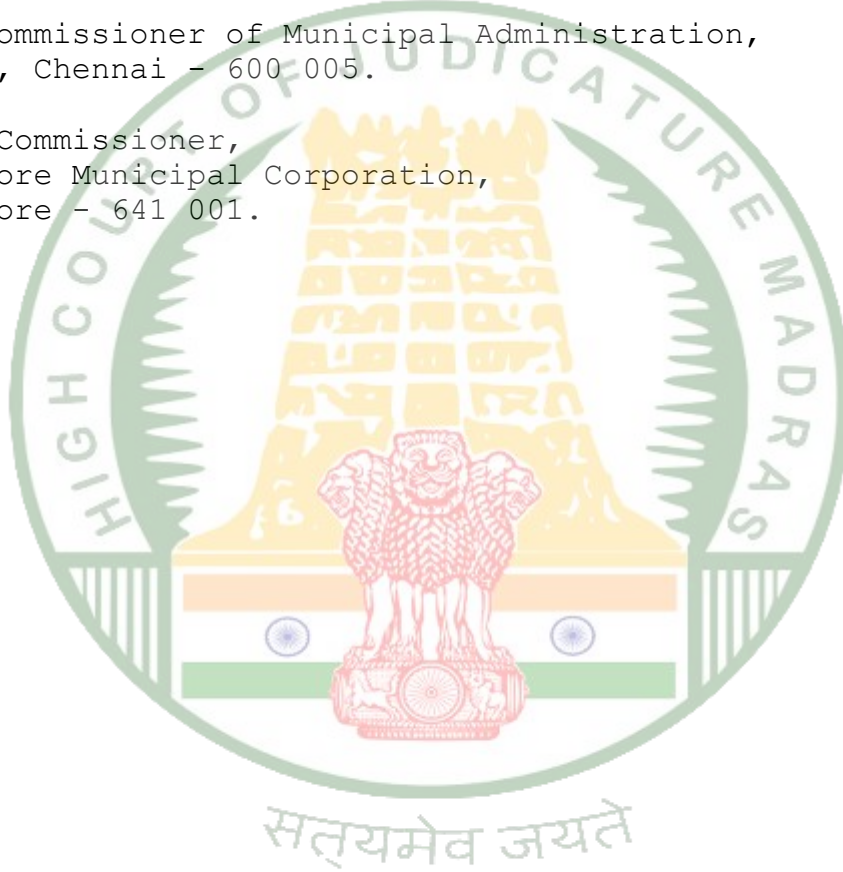
SMI/05/02/2020

To

1. The Secretary to Government,
Municipal Administration & Water Supply
Department,
Secretariat, Fort St.George,
Chennai 600 009.

2.The Commissioner of Municipal Administration,
Chepauk, Chennai - 600 005.

3. The Commissioner,
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