

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.11.2019

CORAM

THE HONOURABLE MR. JUSTICE SUBRAMONIUM PRASAD

Contempt Petition.No.2036 of 2018

T.Gunaseakaran

.. Petitioner

Vs.

Thiru.M.A.Siddique, I.A.S.,
Secretary to Government,
Finance Department (Expenditure),
Secretariat, Chennai - 9.

.. Respondent

Prayer: Contempt petitions filed under section 11 of the Contempt of Courts Act to punish the respondent herein for wilful disobeying the Hon'ble Court passed in W.P.No.11105 of 2014 dated 28.04.2014 and confirmed by the Division Bench in W.A.No.423 of 2016 dated 07.04.2016.

For Petitioner : Mr.G.Punniakoti
For Respondent : Ms.K.Bhuvaneswari,
Additional Government Pleader

ORDER

This Court by an order dated 28.04.2014 in W.P.No.11105 of 2014, passed the following directions;

"In view of all the above, the writ petition is

disposed of in the following terms:-

(i) This writ petition is dismissed in respect of the challenge made to G.O.Ms.No.339 dated 31.07.2013 and the order of punishment of censure is hereby confirmed.

(ii) The respondent is directed to include the name of the petitioner in the panel for promotion to the post of Assistant Section Officer as per G.O.Ms.No.458 dated 19.12.2013 and promote the petitioner from the date on which his immediate junior was promoted as Assistant Section Officer with all the other service benefits and

(iii) The consequential order giving promotion to the petitioner shall be passed by the respondent within a period of three months, from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed. "

2.The Government has passed G.O.Ms.No.157, dated 23.05.2019, complying with the orders of this Court. The relevant portion of the Government Order is extracted hereunder;

"6.In this circumstances, the Government after careful consideration, have decided to implement the orders of the High Court of Madras, dated 28.04.2014 in W.P.No.11105 of 2014 by relaxing the relevant rules in favour of

Thiru.T.Gunasekaran, so as to include his name in the panel for the post of Assistant Section Officer for the year 2013-2014 itself and promote him as Assistant Section Officer from the date on which his immediate junior was promoted as Assistant Section Officer.

7.Accordingly, in exercise of the powers conferred under Section 58 of the Tamil Nadu Government Servants(Conditions of Service) Act, 2016, the Governor of Tamil Nadu hereby relaxes Section 7(1) of the Tamil Nadu Government Servants(Conditions of Service) Act, 2016, [erstwhile Rule 4(a) of the General Rules for Tamil Nadu State and Subordinate Services], in favour of Thiru.T.Gunasekaran, so as to include his name in the panel for the post of Assistant Section Officer for the year 2013-2014.

8.Therefore, the name of Thiru.T.Gunasekaran is included as Sl.No.7(a) in between his immediate senior Thiru.E.Anbazhagan, Assistant (Sl.No.7) and Tmt.N.Meenakshi, Assistant(Sl.No.8) his immediate junior in the panel, approved in the reference 2nd cited, for promotion to the post of Assistant Section Officer for the year 2013-2014.

9.The Government further orders that Thiru.T.Gunasekaran be promoted as Assistant Section Officer from the date on which his immediate junior Tmt.N.Meenakshi, who was promoted

as temporary Assistant Section Officer(i.e.,) on 23.09.2013. The pay of Thiru.T.Gunasekaran shall be notionally fixed in the post of Assistant Section Officer w.e.f. the date of assumption of charge by the junior in the post of Assistant Section Officer which is on 23.09.2013 as per ruling 17 under FR 27. The individual shall be eligible for monetary benefit w.e.f. the actual date of assumption of charges in the post of Assistant Section Officer.

10.Consequent to inclusion of the name of Thiru.T.Gunasekaran, Assistant Section Officer in the panel for the post of Assistant Section Officer for the year 2013-2014, his name included in Sl.No.1 in the panel for the post of Assistant Section Officer for the year 2014-2015 approved in Government Order third read above be deleted. "

3.The learned counsel for the petitioner states that this is a mere lip service of the order, for the reason that the petitioner has been given only notional promotion and he has not been given arrears of salary, for which he is entitled to.

4.The entitlement to arrears of salary is a matter which is debatable. The respondent cannot be proceeded against under the Contempt of Courts Act. The petitioner

Cont.P.No.2036/2018

has to file a fresh writ petition to get that issue settled.

5.The contempt petition is closed.

SD/-

ASSISTANT REGISTRAR (COMM.CASES)

tsg

//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER (O.S.)

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Smi/29/11/2019

To

Secretary to Government,
Finance Department (Expenditure),
Secretariat, Chennai - 9.