

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.07.2019

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MR. JUSTICE M.NIRMAL KUMAR

Cont.A. No. 3 of 2019
and

C.M.P.Nos.13889 and 13892 of 2019

N.N.Thiyagarajan
Executive Engineer,
Public Works Dept/WRD,
Lower Palar Division,
Kancheepuram

...Appellant/ Petitioner

vs.

1.Mr.S.K.Prabakar, I.A.S.,
Principal Secretary to Government,
Public Works Department,
Fort St. George, Chennai - 600 009.

2.Mr.M.Bakthavathsalam,
Engineer-in-Chief and
Chief Engineer(General),
Public Works Department,
Chepauk, Chennai - 5.

...Respondents/ Respondents

Petition filed under Section 19(1) of the Contempt of Courts Act to challenging the order passed by this Court in Contempt Petition No.453 of 2019 in W.P.No.33216/2018 dated 01.04.2019 and contempt petition is filed under section 11 of the Contempt of Courts act 1971 to punish the respondents for their willful and intentional disobedience to the orders passed by this Court in W.P.No.33216/18 dated 14.12.2018 and Writ Petition filed seeking a Writ of Mandamus directing the respondent to consider and pass orders on the representation made by the Petitioner dated 29.10.2018 for revision of his seniority in the cadre of Assistant Executive Engineer by including his name in the appropriate place of the panel of Assistant Executive Engineer (Civil) for the year 2002-2003 and to further revise the seniority of the petitioner in the cadre of Executive Engineer and Superintending Engineer at par with his Junior Thiru.Loganathan and consequently promote him as

Superintending Engineer by including his name in the panel of Superintending Engineer for the year 2018 -2019 within a reasonable time as deemed fit by this Court.

For Appellant .. Mr.K.Venkataramani,
Senior Counsel
for Mr.M.Muthappan

For R1 & R2 .. L.P.Shanmughasundaram,
Special Government Pleader.

JUDGMENT

(Order of the Court was delivered by M.M.SUNDRESH, J.)

This Contempt Appeal No.3 of 2019 is filed against the Order of the learned single Judge dated 01.04.2019 made in Contempt Petition No.453 of 2019 declining to haul the respondents for contempt Petition.

2. The learned senior counsel for the appellant would submit that the order of the learned single Judge in W.P.No.33216 of 2018 dated 14.12.2018 has not been complied with in letter and spirit.

3. Though we find some force in the submission made by the learned senior counsel, on the merit we do not find any willful disobedience of the order passed by this court. If the order of the learned single Judge in W.P.No.33216 of 2018 is not complied with in letter and spirit by passing another order in its purported compliance, the remedy lies elsewhere, which the appellant had already availed by filing a writ petition. To put it differently, the appellant can always contend that the proceedings of the 2nd respondent dated 20.03.2019 is not in compliance with the order in W.P.No.33216 of 2018. After all , a party is entitled to contend that the right would get vested by order of the court. However, the same would not be a ground to haul the respondents on the ground of their willful disobedience of the order passed.

4. In such view of the matter we do not find any willful disobedience on the part of the respondents and thus, the Contempt Appeal stands closed, however, with liberty to the appellant to raise all the contentions in the writ petition. Consequently, connected CMPs are closed.

kmk/smv

Sd/-

Assistant Registrar(CS VIII)

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Sub Assistant Registrar

To

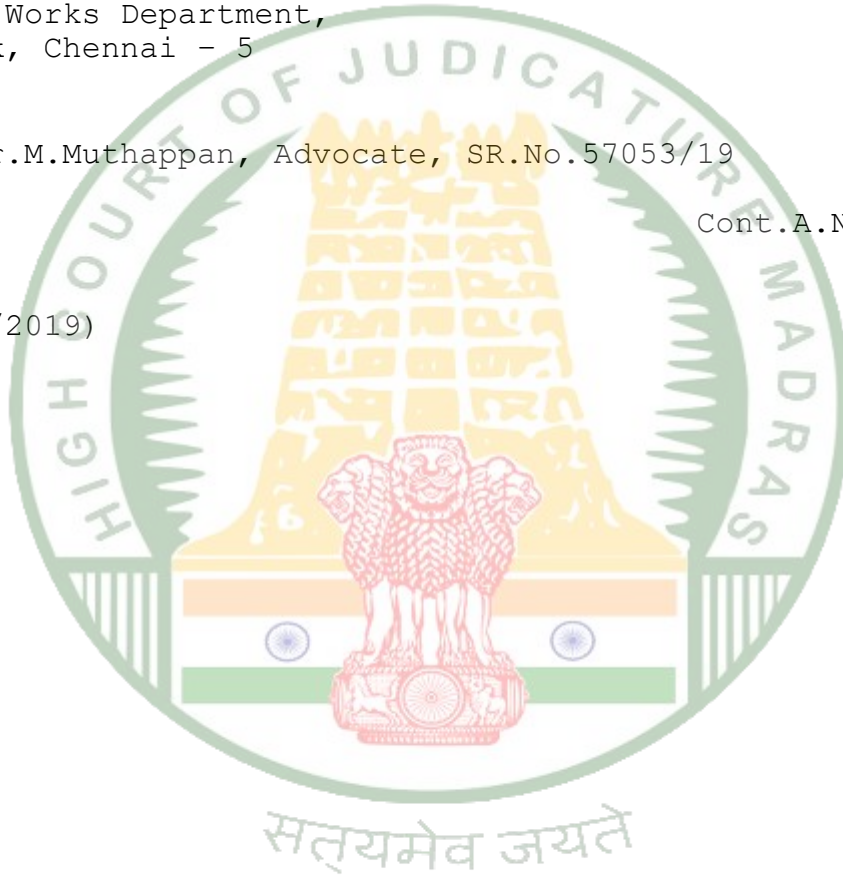
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+1cc to Mr.M.Muthappan, Advocate, SR.No.57053/19

Cont.A.No.3 of 2019

Kak(09/07/2019)



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