



WEB COPY

Cont.P.No.1981/2019

In the High Court of Judicature at Madras

Dated : 12.12.2019

Coram :

The Honourable Mr. Justice T.S. SIVAGNANAM

Contempt Petition No.1981 of 2019

V. Ravikumar

...Petitioner

Vs

Mr. Ganesan, Managing Director,
the Management of Metropolitan
Transport Corporation (Chennai)
Ltd., Pallavan Illam, Anna Salai,
Chennai-2.

...Respondent

PETITION under Section 11 of the Contempt of Courts Act to punish the respondent for willful disobedience to implement the order of this Court dated 15.2.2016 in W.P.No.31822 of 2015.

For Petitioner : Mr. S. Ravi
For Respondent : Mr. M. Chidambaram

ORDER

I have heard Mr. S. Ravi, learned counsel for the petitioner and Mr. M. Chidambaram, learned Standing Counsel for the respondent - contemner.

2. This contempt petition has been filed alleging willful disobedience of the order and directions issued in W.P.No.31822 of 2015 dated 15.2.2016.

3. The said writ petition was disposed of along with other 11 writ petitions. The writ petitions were filed by the respondent - management challenging the orders passed



by the Special Deputy Commissioner of Labour, Chennai-6 rejecting the approval petitions filed by the respondent - management under Section 33(2)(b) of the Industrial Disputes Act, 1947 seeking approval of the orders of dismissal passed against the workmen including the petitioner herein.

4. The petitioner, who was working as a conductor, was dismissed from service on account of unauthorized absence. This Court, after considering the contentions advanced by both the parties, partly allowed the writ petition filed by the respondent - management, set aside the punishment of dismissal from service imposed on the petitioner - workman and directed the respondent - management to impose a lesser penalty, pursuant to which, the respondent - management called upon the petitioner to attend their office so as to enable them to offer employment as a conductor. The petitioner - workman refused to accept the same because the respondent - management directed the petitioner to give an undertaking that he would forgo the back wages. In this background, the petitioner is before this Court alleging willful disobedience of the order and directions issued in the writ petition.

5. Considering the facts of the case, this Court finds that there is no willful disobedience of the order and directions issued by this Court. Since the respondent - management offered employment, it is undoubtedly an act of



reviewing the earlier order of punishment. However, the respondent's financial position precludes them from extending the benefit of back wages to the petitioner.

6. The learned Standing Counsel for the respondent submits that the period of absence is inordinate and taking this into consideration, the order of dismissal was passed, which was not approved by the Authority concerned and this Court issued directions to the respondent - management to impose an alternate punishment. He further submits that this Court may consider issuing appropriate directions so that the petitioner - workman can be given employment.

7. Mr.S.Ravi, learned counsel for the petitioner would vehemently contend that the petitioner is suffering without employment since the date of dismissal in the year 2009 and that the petitioner should be paid back wages and also given employment as a conductor with all attendant benefits.

8. Considering the facts of the case, this Court, in the earlier round of litigation, partly allowed the writ petition filed by the management thereby holding that there is a misconduct committed by the petitioner, however coming to the conclusion that the punishment was disproportionate. Therefore, the matter was remanded to the respondent - management for re-consideration. It is seen that the matter has been reconsidered and that they are offering employment. Hence, this Court is of the view that if the



WEB COPY

Cont.P.No.1981/2019

petitioner is offered employment as a conductor, notionally it should take place from the date of dismissal only for the purpose of service benefits i.e., for computing the length of service and for grant of pension and not for any monetary benefits. For the period, during which, the petitioner was not employed i.e., from 14.12.2009 till he is appointed as a conductor, he will not be entitled to back wages. However, this period will be reckoned for all other purposes i.e., for computation of service benefits.

9. In the result, the contempt petition is disposed of by directing the respondent - management to appoint the petitioner as a conductor within four weeks from the date of receipt of a copy of this order. It is made clear that the employment shall take place notionally from the date of dismissal only for the purpose of service benefits i.e., for computing the length of service and for grant of pension and not for any monetary benefits such as back wages.

SD/-

ASSISTANT REGISTRAR (COMM.CASES)

rs

//Certified to be true copy//

Dated at Madras this the day of 2020.

COURT OFFICER(O.S.)

from 25th day of September 2008 the Registry is issuing Certified copies of the Orders/Judgments/Decrees in this

format-

<https://hcservices.ecourts.gov.in/hcservices/>



Cont.P.No.1981/2019

SMI/06/01/2020

WEB COPY

To

The Managing Director,
the Management of Metropolitan
Transport Corporation (Chennai)
Ltd., Pallavan Illam, Anna Salai,
Chennai-2.