

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

Contempt Petition Nos.2465 to 2467 of 2018

1.G.Senthilkumar
2.D.Kavitha ... Petitioners in Cont. P.No.2465 of 2018

1.K.Sheik Abdulla
2.J.Selvi Petitioners in Cont.P.No.2466 of 2018

P.Muthukumar Petitioner in Cont.P.No.2467 of 2018

vs.

A.Ashok Kumar
Chief Engineer (Personnel),
The Tamil Nadu Generation and
Distribution Corporation Limited,
No.144, Anna Salai,
Chennai 600 002.
... Respondent in all Contempt Petitions

Contempt Petitions filed under Section 11 of the Contempt of Courts Act, 1971, praying to punish the Respondent for the act of wilful disobedience of the common order dated 20.02.2018 made in W.M.P.No.4309 of 2018 in W.P.No.9964 of 2016, W.M.P.No.4310 of 2018 in W.P.No.10954 of 2016 and W.M.P.No.4311 of 2018 in W.P.No.17859 of 2016, respectively.

For Petitioner/Petitioners
in all Contempt Petitions : Mr.V.Stalin

For Respondent
in all Contempt Petitions : Mr.P.R.Dhilip Kumar

COMMON ORDER

As the issue involved in all these cases is one and the same, the Petitions are taken up for disposal by a common order.

2. These Contempt Petitions are filed challenging the common order dated 20.02.2018 made in W.M.P.No.4309 of 2018 in W.P.No.9964 of 2016, W.M.P.No.4310 of 2018 in W.P.No.10954 of 2016 and W.M.P.No.4311 of 2018 in W.P.No.17859 of 2016, respectively.

3. In the Writ Miscellaneous Petitions under contempt, Petitioners have challenged the Respondent's Notification No.1/2016, dated 28.02.2016, insofar as not giving age relaxation to them, as they possess qualification of S.S.L.C. with ITI. For better appreciation, relevant portion of the common order dated 20.02.2018 passed in the above Miscellaneous Petitions are extracted hereunder:

"2. As it appears that the petitioner has filed the writ petitions with a prayer to relaxing the age limit to allow them to sit in the examination by accepting their application.

3. This Court while issuing notice in W.P.Nos.10954 of 2016, W.P.No.9964 of 2016 and W.M.P.No.15552 of 2016 in W.P.No.17859 of 2016, had directed the Respondents to allow the Petitioner to write the examination, also extended the benefit of

age relaxation of the petitioners to submit their applications and the appointment made, if any, will be subject to the result of the Writ Petition. Now, the petitioner came out successfully in the examination, but their selection has been withheld.

4. Needless to state that and as such the petitioners filed this writ miscellaneous petitions to direct the respondents to select them and allow them to join in the post. The same is vehemently opposed by the learned counsel appearing for the respondent in the writ miscellaneous petitions on the ground that their case is yet to be decided. As it appears vide interim order dated 23.03.2016, this Court has given specific direction indicating that any appointment made shall be subject to the result of the writ petition. In such view of the matter, no further direction in this case can be given, pending disposal of the writ petition.

5. Therefore, this Court dispose of this Writ Miscellaneous Petitions by the direction to the respondent to act according to the directions given in the writ petition earlier."

4. According to the learned counsel for the Petitioner/Petitioners in all the Contempt Petitions, when the candidates are successful in the selection process, they should have been appointed in the requisite posts and that they are languishing without appointment for many years.

5. Though there are two ways of interpreting an order, as there is no specific direction in the above order to the effect that the Petitioners should be appointed, and taking note of the fact that this Court has disposed of the above Miscellaneous Petitions with a direction to the Respondent to act in accordance with the directions given in the Writ Petition, the demand of the Petitioners herein that they should be appointed pursuant to the above order of this Court dated 20.02.2018, cannot be accepted. As there is no positive direction to accommodate the Petitioners, this Court finds no prima facie case to hold that the Respondent has committed contempt of the order of this Court.

6. In case, the Petitioners are successful in the Writ Petitions, their case would be considered at the time of appointment, after hearing the other side, and keeping the Contempt Petitions pending would amount to having a sword hanging over the head of the Respondent, which will not serve the purpose of the relief that has been granted by this Court earlier. Hence, without prejudice to the rights of the parties to raise various grounds that are operating against them in the Writ Petition, this Court is not inclined to order statutory notice in the Contempt Petition.

7. In fine, **Contempt Petitions are closed with the above observation.** However, it is open to the Petitioners to move the Registry to list the Writ Petitions for hearing.

SD/-

Assistant Registrar (Comm. Cases)

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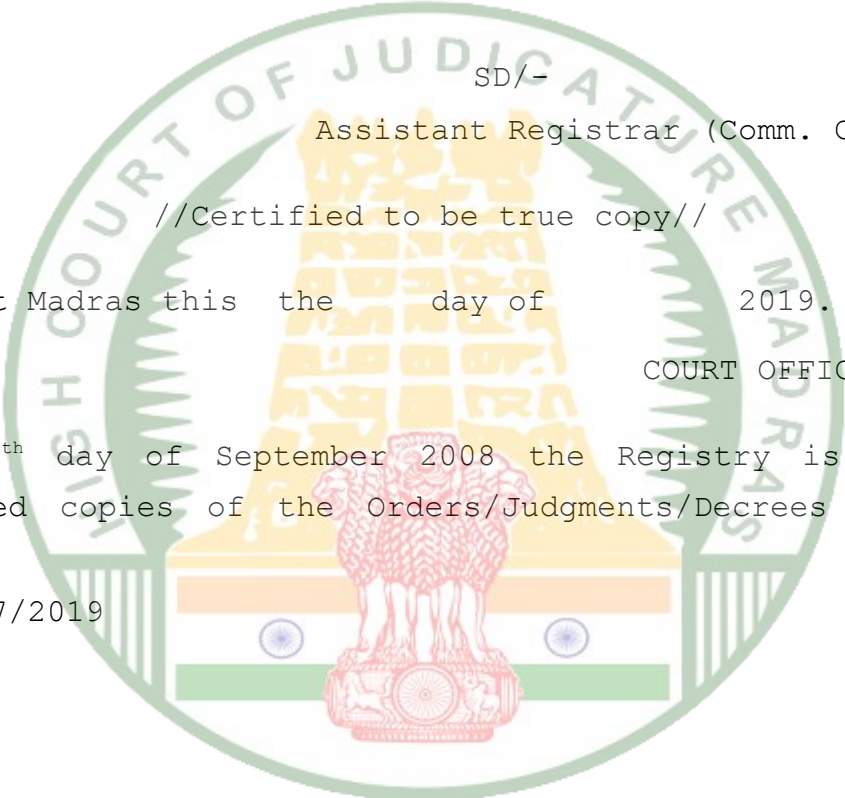
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Dated at Madras this the day of 2019.

COURT OFFICER(O.S.)

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MV/05/07/2019



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