



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.09.2019

CORAM:

THE HONOURABLE Mr.JUSTICE S.VAIDYANATHAN

Cont.P.(MD)No.594 of 2018

IN

WP(MD) No. 5880 of 2016

WEB COPY

D.Devaraj ... Petitioner/Petitioner

Vs.

V.Balachandra Babu,
The District Educational Officer
formerly working as DEO
Kuzhithurai,
Kanyakumari District. ... Contemnor / Respondent

PRAYER: Petition is filed under Section 11 of Contempt of Courts Act, to punish the respondent / Contemnor for his willful disobedience of the order dated 27.02.2017 passed in W.P.(MD)No.5880 of 2016 by this Court.

Prayer in WP(MD)No. 5880/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the 4th respondent to regularize the service of the petitioner from the date of original appointment that is from 13-12-2002 and disburse all monitory benefits from the date of the petitioners appointment by considering the representation of the petitioner dated 03.02.2016 within a stipulated time that may be fixed by this Hon'ble Court.

For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mr.N.Shanmuga Selvam, AGP

O R D E R

This Contempt Petition is filed alleging willful disobedience of the order dated 27.02.2017 passed in W.P.(MD)No.5880 of 2016 by this Court.

2.The learned counsel appearing for the respondents submitted that as against the order of this Court dated 27.02.2017, a writ appeal has been filed in W.A.(MD) No.846 of 2018, which is pending

consideration



3. In case the writ appeal is dismissed or the order of the learned Single Judge is modified, on both grounds, the contempt proceedings will lie only before the Division Bench and not before the Single Judge. If the writ appeal is allowed, then the writ petitioner may not get any relief. If any order is passed in the writ appeal, either confirming or modifying as stated supra, the remedy available to the petitioner is to file a Contempt in the Writ Appeal and not in the Writ Petition, unless and until the Apex Court specifically directs the High Court to decide the issue. Taking note of the principle laid down in **Kunhayammed** case reported in 2000 (6) SCC 359 and **K.K.Dineshan** case reported in **2014 16 SCC 88**, the relief sought for by the petitioner cannot be granted and the Contempt Petition is closed. It is open to the petitioner to work out his remedy depending upon the result in the Writ Appeal.

Sd/-

Assistant Registrar (AD-II)

/ True Copy /

Sub Assistant Registrar(CS-)

To

Mr.V.Balachandra Babu,
The District Educational Officer
formerly working as DEO
Kuzhithurai,
Kanyakumari District.

+1 CC to M/s.GP (SR-85861[F] dated 09/09/2019)

+1 CC to M/s.S.C.HEROLD SINGH, Advocate(SR-85792[F]dated 06/09/2019)

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nbj

ES/01.10.2019/2P/4C