

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.09.2020

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

Contempt Petition No.1518 of 2015

C.S.Srimathi

... Petitioner

vs.

1. Kannan, I.A.S.,
Secretary to Government,
Tourism and Culture Department,
Fort St. George,
Chennai – 600 009.

2. Karthikeyan, I.A.S.,
Commissioner,
Art and Culture Department,
Halls Road, Egmore,
Chennai – 600 008.

... Respondents

Contempt Petition filed under Order 11 of the Contempt of Courts Act, 1971, praying to punish the Respondents herein for willfully disobeying the order dated **11.09.2014** passed by this Court in **Contempt Petition No.404 of 2013**.

For Petitioner : Ms.T.Hemalatha

For Respondents : Mr.M.Elumalai,
Additional Government Pleader

ORDER

This Contempt Petition is filed alleging willful disobedience of the order dated **11.09.2014** made in **Contempt Petition No.404 of 2013**.

2. Learned counsel for the Petitioner drew the attention of this Court to the order dated **01.04.2010** passed in **W.P.No.24850 of 2009**, whereby, the Writ Petition was allowed with a direction to the Respondents to give effect to the order of the Tribunal and to regularize the Petitioner's services on and from **30.04.1998**. It was further held therein that, the services rendered by the Petitioner for the period from **01.05.1998 to 10.03.2003** shall be counted for other service benefits as per the order of the Tribunal.

3. Learned counsel for the Petitioner went on to state that, though the services of the Petitioner were regularized with effect from **01.05.1998** vide proceedings No.**5010/E1/2006**, dated **13.09.2010** issued by the 2nd Respondent/Commissioner, Art and Culture Department, Chennai, monetary benefits for the period **between 01.05.1998 and 10.03.2003** have not been granted, even though the said period was taken into account for granting all other perquisites and benefits.

4. Heard the learned counsel on either side and perused the material documents available on record.

5. When this Contempt Petition was taken up for hearing on 03.03.2020, with reference to paragraph 8 of the order dated **01.04.2010** passed in **W.P.No.24850 of 2009**, the learned Judge has observed that, the period of service rendered by the Petitioner from **01.05.1998 to 10.03.2003** shall be counted and all other benefits as ordered by the Tribunal, shall be paid to the Petitioner within a period of two weeks from the date of receipt of a copy of the order, and directed the Registry to list the matter after two weeks 'for reporting compliance'.

6. In the Compliance Report dated **28.01.2020** filed by the 2nd Respondent, it is stated that, pursuant to the order dated 11.09.2014 passed in Contempt Petition No.404 of 2013, **the 2nd Respondent vide proceedings No.4822/E1/2016, dated 22.03.2017** fixed the Petitioner's seniority in the first place and also issued **G.O.(Ms) No.90, Tourism, Culture and Endowments Department dated 27.06.2019**, declaring the probation of the Petitioner with effect from **26.07.2008** and that, the individual's copy was

served through the Director of Art and Culture.

7. It is further stated that, the Petitioner sent a letter dated **26.07.2019** to the 2nd Respondent, requesting to execute the order for revised pay fixation with effect from 26.07.2008. As requested by the Petitioner, the Government has granted all the benefits due to her with effect from 26.07.2008. However, the Petitioner has not brought to the attention of this Court about the said communication dated 26.07.2019, whereby, she herself had requested to grant benefits **with effect from 26.07.2008 and not from 01.05.1998.**

8. While so, the Petitioner has filed an Affidavit dated 18.02.2020 stating that, the Officials of the Respondent/Department took her signature at the bottom of an already printed letter by representing that, her signature is required for closure of the Contempt Petition, and to enable her to receive all benefits payable to her as per the orders of this Court. It is the case of the Petitioner that, since the letter was brought by the Department Officials themselves for her signature, she considered it more an acknowledgment for the purpose of reporting compliance in the Contempt Petition. She has further stated that, reference to some letter signed by her purportedly giving

up her rights to receive monetary benefits is intended to deliberately mislead this Court to escape punishment in the Contempt proceedings.

9. Before filing of the present Contempt Petition in the year 2015, the Petitioner has filed Contempt Petition No.404 of 2013 and nothing prevented her to make a communication at that point of time, that, she is prepared to accept the benefits with effect from 26.07.2008, without prejudice to the pendency of the present Contempt Petition. The parties are entitled to arrive at a compromise even after the judgment and decree. The contention of the Petitioner that, she is entitled to the benefits retrospectively, may not be correct. The Petitioner cannot take two different stands after filing the present Contempt Petition, more particularly, when she has nowhere stated in the Additional Affidavit that, benefits can be granted without prejudice to her rights in the Contempt Petition pending before this Court. The subsequent Affidavit dated 18.02.2020 filed by the Petitioner clarifying her stand may not be acceptable and the words in the Additional Affidavit would have been carefully coined by the Lawyer.

10. Truth is a defence in contempt. In this case, believing the communication dated 26.07.2019 sent by the petitioner to be true, that, she

has given up benefits prior to 26.07.2008, orders have been passed and it cannot be construed that, the Respondents have disobeyed the orders of this Court and thereby, committed contempt. Hence, I am of the view that, there is no contempt of the order of this Court by the Respondents herein.

Accordingly, **this Contempt Petition is dismissed.**

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

aeb/jas

//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.

SMI/15/12/2020

To

1. The Secretary to Government,
Tourism and Culture Department,
Fort St. George,
Chennai – 600 009.
2. The Commissioner,
Art and Culture Department,
Halls Road, Egmore,
Chennai – 600 008.