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Contempt Petition Nos.961, 1027 & 1068 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2020

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

Contempt Petition Nos.961, 1027 & 1068 of 2018

and Sub Applns (O.S) Nos.202, 207 & 215 of 2018

Cont.P.No.961 of 2018:

1. Thamaraiselvi
2. S.Saradha
3. R.Krishnaveni
4. R.Velammal ... Petitioners in Contempt Petition No.961/2018/
Sub Application No.202/2018

VS.

1. Mangat Ram Sharman, IAS,
Secretary, Government of Tamil Nadu,
Labour and Employment (R2) Department,
Secretariat, Fort St. George,
Chennai – 600 009.
2. M.Vijayakumar, IAS,
Secretary,
Tamil Nadu Public Service Commission,
Chennai.
3. A.Ramanathan,
District Employment Officer,
District Employment Exchange Office,
Virudhunagar.
4. N.Mahalakshmi,
Assistant Director,
District Employment Office,
Madurai – 7.



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5. T.S.Jagadeesan,
District Employment Officer,
District Employment Exchange Office,
Dindigul.
 6. M.Kalimuthu,
District Employment Officer,
District Employment Exchange Office,
Dindigul.
 7. Nagendran,
District Employment Officer,
District Employment Exchange Office,
Tirunelveli.
 8. S.Baskaran,
District Employment Officer,
District Employment Exchange Office,
Krishnagiri.
- ... Respondents in Contempt Petition
No.961/2018/ Sub Application No.202/2018

Contempt Petition filed under Order 11 of the Contempt of Courts Act, 1971, praying to punish the Respondents herein for willfully disobeying the order of this Court in **W.P.No.20177 of 2010, dated 10.04.2017.**

Cont.P.No.1027 of 2018:

1. G.D.Ravichandran
 2. M.Balaji
 3. C.Suresh
 4. R.Hari
- ... Petitioners in Contempt Petition No.1027/2018 /
Sub Application No.207/2018

VS.



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1. Mangat Ram Sharman, IAS,
Secretary,
Government of Tamil Nadu,
Labour and Employment (R2) Department,
Secretariat, Fort St. George,
Chennai – 600 009.
 2. M.Vijayakumar, IAS, Secretary,
Tamil Nadu Public Service Commission,
Chennai.
 3. V.Karunakaran
District Employment Officer,
District Employment Exchange Office,
Vellore.
 4. V.Srinivasan,
District Employment Officer,
District Employment Exchange Office,
Thiruvellore.
- ... Respondents Contempt
Petition No.1027/2018 / Sub Application No.207/2018

Contempt Petition filed under Order 11 of the Contempt of Courts Act, 1971, praying to punish the Respondents herein for willfully disobeying the order of this Court in **W.P.No.17924 of 2010 dated 10.04.2017.**

Cont.P.No.1068 of 2018:

1. S.Selvi Jabamalai
 2. K.P.Saradha
 3. V.Sivakumar
 4. A.Kumudhini
 5. K.Kala
 6. R.Krishnaveni
 7. E.Prabhakar
- ... Petitioners Contempt Petition
No.1068/2018 / Sub Application No.215/2018

VS.



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1. Mangat Ram Sharman, IAS,
Secretary,
Government of Tamil Nadu,
Labour and Employment (R2) Department,
Secretariat, Fort St. George,
Chennai – 600 009.
2. M.Vijayakumar, IAS, Secretary,
Tamil Nadu Public Service Commission,
Chennai.
3. O.S.Gnanasekaran,
Assistant Director,
District Employment Exchange Office,
Coimbatore – 29.
4. R.Arunagiri,
Assistant Director in charge,
District Employment Exchange Office,
Kancheepuram.
5. V.Karunakaran,
District Employment Officer,
District Employment Exchange Office,
Vellore.
6. P.Vadivelu,
District Employment Officer,
Ootacamund, The Niligiris.
7. T.Balamurugan,
District Employment Officer,
District Employment Exchange Office,
Nagapattinam.
8. A.Jothimani,
Assistant Director,
District Employment Exchange Office,
Salem – 7.



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9. S.Thiagarajan,
District Employment Officer,
District Employment Exchange Office,
Perambalur.

10. V.Srinivasan,
District Employment Officer,
District Employment Exchange Office,
Tiruvallore. ... Respondents Contempt Petition
No.1068/2018 / Sub Application No.215/2018

Contempt Petition filed under Order 11 of the Contempt of Courts Act, 1971, praying to punish the Respondents herein for willfully disobeying the order of this Court in **W.P.No.17923 of 2010 dated 10.04.2017.**

Sub Application Nos. 202/2018, 207/2018, 215/2018 filed under Section 151 CPC to direct the respondents herein to pay the time scale of pay as per the orders of this Hon'ble Court dated 10.04.2017 in W.P.No.20177 of 2010, 17924/2010, 17923/2010 pending disposal of the petition for contempt.

* * * * *

For Petitioners in all : Mr.Ramkumar
Contempt Petitions for Mrs.A.L.Gandhimathi

For Respondents in all : Mr.M.Elumalai,
Contempt Petitions Addl. Government Pleader

COMMON ORDER

These Contempt Petitions are filed alleging willful disobedience of the **common order dated 10.04.2017** passed by this Court in **W.P.No.20177 of 2010, W.P.No.17924 of 2010 and W.P.No.17923 of 2010**, respectively.

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



2. When the matter is taken up for hearing today, it is represented by the learned Additional Government Pleader appearing for the Respondents that, the orders under contempt are challenged in **W.A.Nos.772, 748 and 753 of 2019** and are pending before a Division Bench of this Court.

3. In view of the submissions of the learned Additional Government Pleader appearing for the Respondents, Contempt will not lie against the order passed in **W.P.No.20177 of 2010, W.P.No.17924 of 2010 and W.P.No.17923 of 2010**, respectively.

4. In the case of **Kunhayammed vs. State of Kerala**, reported in **(2000 (6) SCC 359)**, the principle of Doctrine of Merger has been widely discussed. With reference to the three-Judge ruling in **Kunhayammed** case and yet another decision of the Apex Court in the case of **Dineshan, K.K. vs. R.K.Singh** reported in **(2014) 16 SCC 88**, this Court is of the view that, once the order passed in a Writ Petition gets merged with the order of the Writ Appeal, 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.

5. Thus, in view of the principle of Doctrine of Merger discussed above, **the present Contempt Petitions cannot be adjudicated and hence, they are closed.** However, it is open to the Petitioners to work out their



Contempt Petition Nos.961, 1027 & 1068 of 2018

remedy in the manner known to law. Consequently, connected Sub

Application Nos.202, 207 and 215 of 2018 are closed.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

aeb/jas

//Certified to be true copy//

Dated at Madras this the day of 2020.

COURT OFFICER(O.S.)

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SMI/05/11/2020

To

1. The Secretary, Government of Tamil Nadu,
Labour and Employment (R2) Department,
Secretariat, Fort St. George,
Chennai – 600 009.
2. The Secretary,
Tamil Nadu Public Service Commission,
Chennai.
3. The District Employment Officer,
District Employment Exchange Office,
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4. The Assistant Director,
District Employment Office,
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District Employment Exchange Office,
Tirunelveli.
8. The District Employment Officer,
District Employment Exchange Office,
Krishnagiri.
9. The District Employment Officer,
District Employment,
Exchange Office,
Vellalore.
10. The District Employment Officer,
District Employment Exchange Office,
Thiruvellore.
11. The Assistant Director,
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Coimbatore – 29.
12. The Assistant Director in charge,
District Employment Exchange Office,
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Nagapattinam.
15. The Assistant Director,
District Employment Exchange Office,
Salem – 7.
16. The District Employment Officer,
District Employment Exchange Office,
Perambalur.