

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2020

CORAM

THE HONOURABLE MR. **JUSTICE M.M.SUNDRESH**

and

THE HONOURABLE Ms. **JUSTICE P.T.ASHA**

Contempt Petition No.706 of 2020

P.Venkatchalam,
133-B, M.G.R.Nagar,
Karuveppampatty 637 304,
Tiruchengode Taluk,
Namakkal District.

... Petitioner

Vs.

1.Pradeep Yadav,
Principal Secretary to Government,
Department of School Education, Secretariat,
Chennai-600 009.

2.P.Kuppusamy,
Director, Directorate of Public Libraries,
737/1, Anna Salai, Chennai-600 002.

... Respondents

Contempt petition is filed under Section 11 of the Contempt of Courts Act, 1971, to summon the respondents and punish them for wilfull disobedience of the order dated 28.08.2019 made in W.A.1975 of 2019 passed by this Court.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.C.Munuswamy
Special Government Pleader

ORDER

(Order of the Court was made by M.M.Sundresh,J.)

This contempt petition has been filed inter alia alleging that the order passed in W.A.No.1975 of 2019 dated 28.08.2019 has not been followed in by not filling up the vacancies by treating the petitioner as qualified having put in five years of service as Superintendent while considering in the category of the recruitment by transfer.

2.Mr.N.Manokaran, learned counsel for the petitioner submitted that the contemnors themselves have taken a stand earlier stating that even a services on an administrative capacity would deem to be services under a supervisory capacity of a Librarian.

3.The learned Special Government Pleader appearing for the respondents/contemnors, placing reliance on the affidavit filed, submitted that the petitioner is not qualified to be considered for the post by way of recruitment by transfer. He was working only on an administrative capacity

and therefore, in the absence of any service rendered at a Library as Superintendent, the petitioner cannot be termed as qualified with the prior experience. It is further submitted that though steps were taken by identifying the posts, the consequential filling up could not be done in view of the interim order obtained by the petitioner himself.

4.The respondents have taken a specific stand on the interpretation of Rule 4-b of the Adhoc Rules that the experience of minimum of five years in a supervisory cadre is with reference to the service rendered at a library and not in the administrative wing. On that basis, the case of the petitioner has not been considered. We do not think that this stand would constitute a wilfull disobedience of the order passed. In fact, the order was passed rejecting the case of the petitioner by the second respondent in Na.Ka.No.8641/ 1/2019 dated 29.01.2020. The said order also states the reason for not filling up the vacancies.

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5.In such view of the matter, we do not find any wilful disobedience of the order passed. Therefore, the remedy open to the petitioner is not by way of a contempt but to challenge the order declining the request made for consideration for want of qualification. This is an adjudicatory process and

the Contempt Petition stands closed giving liberty to the petitioner to raise all his contentions by way of a separate proceedings, including the misconstruing of the order passed in W.A.No.1975 of 2019.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

raa

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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GS/31/03/2021

To

1. The Principal Secretary to Government,
Department of School Education, Secretariat,
Chennai-600 009.
2. The Director, Directorate of Public Libraries,
737/1, Anna Salai, Chennai-600 002.