



WEB COPY

Cont.P.No.1663/2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.03.2020

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

Cont.P.No.1663/2019

R.Balakrishnan

Versus

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Petitioner

1.Mr.Niranjan Mardi, IAS
Secretary to Government
Home Department,
Secretariat, Chennai-9.

2.Mr.J.K.Tripathy, IPS
The Director General of Police
Kamarajar Salai, Chennai-4.

3.Dr.K.Jayanth Murali, IPS
The Additional Director General of Police
Kamarajar Salai, Chennai-4.

4.Dr.J.Loganathan, IPS
The Deputy Inspector General of Police
Tanjore Range, Tanjore.

5.Mr.Mayilvaganan, IPS
The Superintendent of Police
Thiruvarur District,
Thiruvarur.

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Respondents

Prayer:- Contempt Petition filed u/s.11 of the Contempt of Courts Act, to



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punish the respondents for the willful disobedience of this Court order dated 11.01.2017 made in WP.No.2294/2014.

For Petitioner : Mr.M.Rajendiran

For Respondents : M/s.K.Bhuvaneswari, AGP

ORDER

(1)The petitioner, alleging non-compliance of the order passed in WP.No.2294/2014 dated 11.01.2017, came forward to file the present petition for contempt.

(2)The contempt petition was entertained and the counter affidavit of the 4th respondent/4th contemnor dated 30.12.2019 was filed wherein, it is stated among other things that challenging the order, which is the subject matter of contempt, SLP [C] No.27377 of 2019 was filed and it was also dismissed by the Hon'ble Supreme Court of India vide order dated 18.11.2019 and the 4th respondent/4th contemnor vide proceedings dated 20.11.2019 in RO.No.375/2018 and C.No.6257/B1/2420/2018 had passed an order to comply with the original order dated 11.01.2017 passed in WP.No.2294/2014 and that the punishment of removal from service was also modified to one of



"postponement of two increments without cumulative effect".

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(3) When the matter was listed on the last occasion, it was represented on behalf of the petitioner that consequential proceedings as to the reinstatement and modified order of punishment have not been passed and therefore, it was adjourned.

(4) Today, the learned Additional Government Pleader appearing for the respondents/contemnors produced the proceedings of the Deputy Inspector General of Police, Thanjavur, dated 16.12.2019 in R.O.No.398/2019 and C.No. 6257/B1/2420/2019 and in terms of FR.54, FR.9[3-B] and FR105[7], the consequential proceedings have been passed and it is relevant to extract the same:-

"7. The period of out of employment spent by the individual is settled as follows:-

<i>Date of removal from service Order issued</i>	<i>02.05.2013</i>	<i>Treated as eligible leave including extra ordinary leave without pay As per FR.54</i>
Before the date of the order for reinstated into service	19.11.2019	
Date of Range Order to reinstated him into service	20.11.2019	04-days compulsory wait period, i.e.,



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<i>Date of removal from service Order issued</i>	<i>02.05.2013</i>	<i>Treated as eligible leave including extra ordinary leave without pay As per FR.54</i>
Before the date of the order for reinstated into service	19.11.2019	
Date of service of reinstated order to the individual	23.11.2019	Duty Period <i>As per FR.9[3-B]</i>
Time gap between after the date of acknowledgment of the Range Order and a day before the date of reporting for duty by the individual	24.11.2019 27.11.2019	04-day Joining Time <i>as per FR-105[7]</i>

The above proceedings dated 16.12.2019 is taken on file and record.

(5)The learned counsel for the petitioner has invited the attention of this Court to the decision rendered by the Hon'ble Supreme Court of India reported in **2019 [11] SCALE 277 [Jayantibhai Raojibhai Patel V. Municipal Council, Narkehed and Others]** and would submit that in the light of the fact that the petitioner has been illegally removed from service, he is entitled for back wages and other consequential benefits and the same has been unjustly denied to the petitioner and prays for appropriate orders.

(6)Per contra, M/s.K.Bhuvaneswari, learned Additional Government Pleader appearing for the respondents/contemnors would submit that the punishment



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of removal from service though set aside, still the petitioner was imposed with the punishment of postponement of two increments without cumulative effect and as such, the relevant provisions of the Fundamental Rules has been rightly applied.

(7) This Court has carefully considered the rival submissions and also perused the materials placed before it.

(8) In the light of the fact that the order of removal from service has been modified to one of postponement of two increments without cumulative effect, the 4th respondent/4th contemnor has chose to issue the consequential proceedings dated 16.12.2019. It *prima facie* appears that discretion has been vested with the said authority and accordingly, he has passed the said order. If the petitioner is aggrieved by the said proceedings, he is always at liberty to make a challenge to the said proceedings in the manner known to law before the competent appropriate Forum. It is also made clear that this Court did not go into the merits or otherwise of the consequential proceedings passed by the 4th respondent/4th contemnor, viz., the Deputy Inspector General of Police, Thanjavur Range, Thanjavur, dated 16.12.2019.



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(9) In the result, the contempt petition stands closed subject to above observations.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

AP

//Certified to be true copy//

Dated at Madras this the day of 2020.

COURT OFFICER(O.S.)

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SMI/19/06/2020

To

1. Secretary to Government
Home Department,
Secretariat, Chennai-9.
2. The Director General of Police
Kamarajar Salai, Chennai-4.
3. The Additional Director General of Police
Kamarajar Salai, Chennai-4.
4. The Deputy Inspector General of Police
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5.The Superintendent of Police
Thiruvarur District,
Thiruvarur.