



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

Cont.P.(MD) No.46 of 2020

in

W.P.(MD) No.14130 of 2019

S.Ponnusamy

... Petitioner

-vs-

G.Devarajan
Sri Paramakalyani College
Rep.by its Secretary
Sivasailam Road
Alwarkurichi-627 412
Tirunelveli District

... Respondent

PRAYER: Contempt Petition is filed under Section 11 of the Contempt of Courts Act praying to punish the respondents for the deliberate and willful disobedience of the order dated 25.06.2019, passed by this Court in W.M.P.(MD) No.10597 of 2019 in W.P.(MD) No.14130 of 2019.

Prayer in WMP(MD) . 10597/ 2019 :

To grant an order of Interim Stay of all further proceedings of the impugned order passed by the 4th respondent in his proceedings in Na.Ka.NO.15654/U1/2011 dated 06.05.2019 by confirming the impugned punishment order of reduction in rank as Assistant Professor issued by the 5th respondent in his proceedings in Ref.NO.165/SPKC/11-12 dated 28.10.2011 pending disposal of the above Writ Petition and thus render justice

Prayer in WP(MD) . 14130/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 4th respondent in his proceedings in Na.Ka.NO.15654/U1/2011 dated 06.05.2019 by confirming the impugned punishment order of reduction in rank as Assistant Professor issued by the 5th respondent in his proceedings in Ref.No.165/SPKC/11-12 dated 28.10.2011 and quash the same as illegal and consequently to direct the respondent to pay the pension as per the last drawn pay received in the cader of Associate Professor along with arrears.

For Petitioner: Mr.C.Venkatesh Kumar
for M/s.Ajmal Associates

For Respondent: Mrs.Geethi Ara
for M/s.Ramasubramaniam Associates



O R D E R

This contempt petition has been filed alleging wilful disobedience of the order, dated 25.06.2019, made in W.M.P.(MD) No.10597 of 2019 in W.P.(MD) No.14130 of 2019.

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2. The respondent has filed a counter affidavit stating that he came to know about the interim order of this Court dated 25.06.2019, only after notice has been served on him on 12.12.2019. Further he has stated that mere issuance of a cessation certificate referring the amount to be recovered is not tantamount to the actual recovery, which has not been taken place till date. Therefore, according to the respondent, he has not recovered the amount in question pursuant to the interim orders granted by this Court.

3. On perusal of the materials available on record, it is seen that this Court has passed an order of interim stay in respect of recovery alone on 25.06.2019. But, the respondent has passed the cessation certificate on 04.09.2019 stating that Rs.5,58,521/- is to be recovered from the petitioner. Thereafter, according to the petitioner, he has served notice on the respondent on 12.12.2019. However, except the said notice, there is no other record either acknowledgement or any proof to show that the said notice has been served on the respondent. But, the petitioner has filed this contempt petition stating that he has preferred a representation to the respondent along with the order passed by this Court requesting them not to make any recovery proceedings, despite the same, the respondent has issued the cessation certificate, dated 04.09.2019. Even though the petitioner contended that the act of the respondent is nothing but a wilful disobedience of the orders passed by this Court, he has not produced any material to show that the respondent has been served with notice before issuing the cessation certificate. Therefore, this Court is of the view that the respondent has not violated the orders of this Court and his act in passing the cessation certificate could not be construed as wilful disobedience of the orders of this Court to initiate contempt proceedings against him.

4. Hence, for the reasons stated above, this contempt petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but,

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



ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

krk

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SJ(CO)
KB(11.10.2021) 3P 2C