



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.10.2021

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

CONT P(MD)Nos.1297 and 1299 of 2021

in

W.P(MD)No.11076 & 11476 of 2014

WEB COPY

CONT P(MD)No.1297 of 2021:-

S.Saint Ravirajan

... Petitioner

vs.

1.Dayanand Kataria,

Commissioner and Secretary to Government,
Transport Department, Secretariat,
Fort St.George, Chennai - 600 009.

2.Rajeswaran,

Managing Director,
Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,
Kattapomman Nagar, Tirunelveli.

3.Saravanan,

General Manager,
Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,
Tirunelveli Region, Vannarapettai,
Tirunelveli.

... Contemnors/Respondents

PRAYER: Petition filed under Section 11 of the Contempt of Courts Act, 1971, to punish the respondents for committing contempt for the wilful disobedience of the order in W.P.(MD)No.11076 of 2014, dated 12.10.2015 on the file of this Court.

Prayer in WP(MD). 11076/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the Respondents to consider the Petitioner s representation dated 16.06.2014 and re-designate the Petitioner as Junior Assistant respectively from the date on which the Petitionoenr obtained the degree in the same manner the posts of the persons who were appointed along with the Petitioner as Record Clerks were re-designated as Junior Assistant from the date of their acquiring degree.

For Petitioner : Mr.S.Govindan

For Respondents : Mr.R.Rajamohan



CONT P(MD)No.1299 of 2021:-

T.Antony Xavier Raj

... Petitioner

vs.

Rajeswaran,
Managing Director,
Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,
Kattapomman Nagar, Tirunelveli.

... Contemnor/Respondent

PRAYER: Petition filed under Section 11 of the Contempt of Courts Act, 1971, to punish the respondents for committing contempt for the wilful disobedience of the order in W.P.(MD)No.11476 of 2014, dated 12.10.2015.

Prayer in WP(MD) . 11476/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Mandamus directing the respondents to re-designate his petitioner as Junior Assistant with effect from the date of his completion of degree on April 1988 and to grant all consequential benefits by considering the representation of the petitioner dated 19.6.2014.

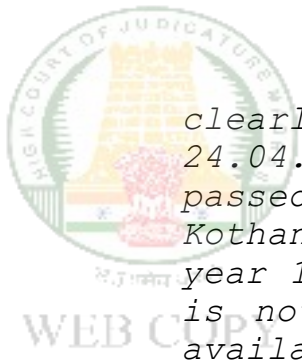
For Petitioner : Mr.S.Govindan

For Respondent : Mr.R.Rajamohan

COMMON ORDER

These Contempt Petitions are filed alleging wilful disobedience of the order of this Court, dated 12.10.2015, in W.P. (MD)Nos.11076 and 11476 of 2014. The petitioners in the Contempt Petitions are the petitioners in the respective Writ Petitions. Both the Writ Petitions were filed for similar relief. This Court disposed of the Writ Petitions in the following lines:

"7.This Court is not able to find any merits in these Writ Petitions. In the case of J.Anthony Manokar Gnanasekar, C.Sivaji and P.Thangasamy, originally, they were appointed in the post of Record Clerk, however, as they obtained degree in various subjects on subsequent dates, the respondent has issued separate order re-designating them in the post of Junior Assistant, may be taking into the existing vacancies available then. But in the present case also, proceedings issued in favour of



clearly shows that there was a vacancy even on 24.04.1986. Another proceedings, dated 10.08.1989, passed in favour of K.S.Murugan, who is the Conductor and Kothandaraman, shows that they were vacancies even in the year 1989 in the post of Junior Assistant. Therefore, it is not open to the respondent to say that due to non-availability of vacancies for the post of Junior Assistant, the petitioners were denied re-designation on earlier occasions. In any event, when the learned Counsel appearing for the petitioners have consistently requested this Court that the petitioners are not pressing their benefit of back-wages from date of acquisition of degree and they are asking the notional promotion for the purpose of promotion and seniority and pension alone, this Court has no hesitation to direct the respondent to re-designate the petitioners as Junior Assistant from the date of acquisition of degree without granting benefit of back-wages. Accordingly, the respondent is directed to redesignate all the petitioners as Junior Assistant, from the date of acquisition of degree without granting benefit of back-wages.

8.With the above direction, these Writ Petitions are disposed of. No costs."

2.The learned Counsel for the petitioner himself enclosed a copy of the proceedings, dated 02.01.2016, passed by the third respondent in Cont.P.(MD)No.1297 of 2021, which reads as follows:

"In continuation of the direction of the Madurai Bench of Madras High Court in WP(MD) 11076/14, 11476/14, 4479/15 under the reference 2nd cited and also as per the resolution cited in 3rd reference the dates of re-designation as Junior Assistant under 1st reference cited in respect of Thiruvallargal.S.Saint Ravi Rajan, T.Antony Xavier Raj and P.Maruthaiah are hereby changed as detailed below without granting benefit of back wages.

Sl.No	Name	EDP.No	Place of Working	Changed Date of effect
1	S.Saint Ravi Rajan	176	Thoothukudi ©	01.05.1987
2	T.Antony Xavier Raj	4749	Thoothukudi ©	01.05.1988
3	P.Maruthaiah	4757	Central Accounts	01.12.1986"



3. On the basis of the proceedings, dated 02.01.2016, the learned Counsel for the respondents submitted that the order of this Court, dated 12.10.2015 is complied with in letter and spirit and that therefore, the Contempt Petitions may be closed recording compliance. However, the learned Counsel for the petitioner submitted that the order is not complied in full. The learned Counsel for the petitioner himself has produced before this Court the order, dated 27.09.2016, passed by this Court in Cont.P(MD) Nos.47 to 49 of 2016 and the order, dated 27.01.2021, in Sub.A. (MD)Nos.272 and 273 of 2017. Earlier the Contempt applications were closed with certain directions. The petitioner filed thereafter Sub. Applications to clarify the earlier order passed.

4. This Court considering the order, dated 12.10.2015, passed in the Writ Petitions and the subsequent developments, observed that the Sub Applications are not maintainable after holding that the order of this Court, dated 12.10.2015, had already been complied with. Liberty was also given to the petitioners to workout their remedy before the appropriate forum. This Court is unable to find any other direction, except the direction which has now been complied with by the respondents. A Contempt Petition cannot be filed based on assumptions or by interpreting the order on the basis of subsequent developments or on new facts and contentions of the respective parties. If a process of reasoning is required to understand the order, this Court will not consider the disobedience as wilful.

5. The learned Counsel for the petitioner is unable to convince this Court, as to how the order passed by the third respondent in Cont.P.(MD)No.1297 of 2021, dated 02.01.2016, is not in compliance of the direction of this Court. In other words, the learned Counsel for the petitioner is unable to point out that the respondents were directed by this Court to grant further relief to the petitioners. Since no ground is made out for committing contempt against the petitioners, this Court has no other option but to dismiss these Contempt Petitions. Accordingly, these Contempt Petitions are dismissed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

tmg/cmr

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To

1. Dayanand Kataria,
The Commissioner and Secretary to Government,
Transport Department, Secretariat,
Fort St. George, Chennai - 600 009.
2. Rajeswaran,
The Managing Director,
Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,
Kattapomman Nagar, Tirunelveli.
3. Saravanan,
The General Manager,
Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,
Tirunelveli Region, Vannarapettai,
Tirunelveli.

+2 CC to M/s.R.RAJAMOHAN, Advocate (SR-31847[F] dated
08/10/2021)

CONT P(MD)Nos.1297 and 1299 of 2021
07.10.2021

RK (29/10/2021) 5P 6C