



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.10.2021

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

CONT.P.(MD)No.1364 of 2021

in

W.P.(MD)No.16756 of 2015

K.Ramachandran

...Petitioner/ Petitioner

Vs.

Mahesh Kumar,
Superintendent of Police,
Thanjavur District,
Thanjavur.

...Contemnor/Respondent

Prayer: Contempt Petition filed under Section 11 of Contempt of Courts Act, to punish the respondent for his disobedience of the orders passed by this Court in W.P.(MD)No.16756 of 2015, dated 19.04.2018, under the contempt of Courts Act.

Prayer in WP(MD). 16756 of 2015 :

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the proceedings in C.No. K4/1675/2013 and D.O.90/2013 dated 28.01.2013 issued by the respondent herein and quash the same and consequently direct the respondent herein to allow the petitioner to retire from service and disburse all the retirement benefits, arrears of salary, difference of payment due to pay commission recommendations, and other benefits within the time stipulated by this Honble Court.

For Petitioner : Mr.B.Jameel Arasu

For Respondent : Mr.D.Ghandiraj
Government Advocate

ORDER

This Contempt Petition has been filed for the alleged disobedience of the order passed by this Court in W.P.(MD)No.16756 of 2015, dated 19.04.2018.

2.In the said order, this Court has given following directions:

"14.In the circumstances of the case, the

following orders are passed in this Writ



Petition.

(i) That the respondent is hereby directed to expedite the approval process from the Department of Vigilance and Anti-Corruption given any approval, the same shall be served on the petitioner immediately and thereafter enquiry shall be conducted by appointing an enquiry officer and it shall be concluded at the earliest.

(ii) The aforesaid action shall be undertaken by the respondent within the outer limit of six months from the date of receipt of a copy of this order.

15.It is further made clear that if within the six months, the aforesaid action directed to be undertaken, has not been completed, it shall be presumed that there is no disciplinary proceeding in the eye of law against the petitioner and on completion of the six months period without completing the disciplinary proceeding, the petitioner shall be permitted to retire from service and consequentially, he shall be entitled to claim all service benefits.

16.It is further made clear that, since a time bound direction is given to complete the enquiry, the petitioner shall co-operate with the authorities during enquiry and unnecessary adjournment shall not be asked for by the petitioner.

17.With these directions, the Writ Petition is disposed of. No costs."

3.The said order has not been complied with according to the petitioner, as within six months period as directed by this Court, the respondent has not completed the enquiry and after six months period, belatedly they conducted the enquiry and they inflicted the punishment against the petitioner. As against the said order of punishment or penalty imposed against him, he filed another Writ Petition i.e., W.P.(MD)No.24245 of 2019, wherein a counter affidavit has been filed, where the respondent took a stand in the following terms:

"6.It is most respectfully submitted with reference to para 10 and 11 of the Writ Petition, it is true that the Hon'ble Madurai Bench of Madras High Court ordered in W.P.(MD)No.16756 of 2015 dated 19.04.2018, ordered that the disciplinary action shall be disposed by the

respondents within the outer limit of six months



from the date of receipt of copy of the order. But due to administrative reasons, delay was made in disposing the disciplinary proceedings."

4. Pointing out the said stand taken by the respondent that due to the administrative reason, there has been a delay in disposing the disciplinary proceedings, despite the directions issued by this Court in the order referred to above that it should have been completed within six months period and if it is not completed within six months period, it was declared by this Court in the said order that in the eye of law, there is no disciplinary proceedings, the learned counsel appearing for the petitioner submits that the petitioner would be entitled to get peaceful retirement and also the consequential retirement benefits.

5. Pointing out all these, the learned counsel seeks indulgence of this Court to initiate the contempt proceedings against the respondent on the alleged reason that he has admittedly not complied with the orders of this Court by completing the disciplinary proceedings within six months period as provided by this Court. Therefore, according to the petitioner's counsel, the respondent has committed the contempt.

6. The learned Government Advocate appearing for the respondent would submit that due to the administrative reason, as stated in para 6 of the counter affidavit in the other Writ Petition filed by the petitioner, there has been some delay in the disciplinary proceedings. However, that should not *ipso facto* make entitled the petitioner to claim the right of getting retirement peacefully, as he has been imposed the penalty for the proven charges. Therefore, if at all he has got any grievance over the said order of penalty imposed against the petitioner, he can pursue the matter in other writ petition, which he has already filed. Therefore, this contempt petition can be closed, he contended.

7. I have considered the said rival submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

8. As has been rightly pointed out by the learned counsel appearing for the petitioner, the respondent admittedly has not complied with the order passed by this Court, by completing the enquiry within the six month period. No extension application also has been filed by the respondent for seeking any extension for completion of the enquiry beyond the six months period for whatever reasons, including the administrative reasons as stated now.



9.It is the settled proposition that, when a strict time limit has been given by a Court to complete a particular thing, the parties concerned has to comply with the order within the time given by this Court, otherwise, if for any unforeseen reason including administrative reasons, it could not be complied within the time, extension of time should have been asked for by filing separate application. Therefore, the respondent cannot take it for granted and complete the enquiry, according to their own time constrain, unmindful of the direction or time limit prescribed by this Court.

10.Strictly speaking, the disciplinary proceedings initiated against the petitioner shall not have any effect, if the disciplinary proceedings is not completed within six months period, as has been observed in the order referred to above.

11.It is also to be noted that, as against the said order, no appeal has been filed. Therefore, the said observations and findings given by this Court still holds good. Hence, in the eye of law, there could be no disciplinary proceedings beyond six months period and therefore, the petitioner would be entitled to get retirement benefits, after getting retirement peacefully.

12.However, now an order of penalty has been passed against the petitioner, which is the subject matter before this Court in another Writ Petition i.e.,W.P.(MD)No.24245 of 2019, initiated by the petitioner. Therefore, by raising all these grounds, the petitioner can very well pursue this matter before the Writ Court in the said writ petition, where the aforestated observations and grounds can be made useful for the petitioner to agitate the issue successfully.

13.Hence, this Court feels that at this juncture, the present Contempt Petition need not be proceeded further against the respondent. Therefore, by recording the aforesaid observations, this Court is inclined to close this Contempt Petition, accordingly it is closed. No costs.

Sd/-

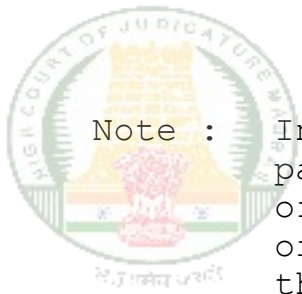
Assistant Registrar (AD-II)

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Sub Assistant Registrar (CS)

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

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To

Mahesh Kumar,
The Superintendent of Police,
Thanjavur District,
Thanjavur.

+1 CC to M/s.SPL.GP (SR-32350[F] dated 25/10/2021)

CONT. P. (MD) No. 1364 of 2021

Dated:
21.10.2021

RK/JC (15/11/2021) 5P 3C