



WEB COPY



Cont.P.No.2935 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.12. 2022

CORAM:

THE HONOURABLE MR. JUSTICE R. SUBRAMANIAN

AND

THE HONOURABLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

Contempt Petition No.2935 of 2014

B. Suresh,
No.142, Sri Karpagavinayagar Illam,
Elk Hill Road,
Near NTN,
Udagamandalam – 643 001.

... Petitioner

-vs-

1. N.S.Palaniappan I.A.S.

The Principal Secretary to Government,
Rural development and Panchayath Raj (E7), Department,
Secretariat, Chennai – 9.

2. K.Baskaran, I.A.S.,

The Director of Rural Development and Panchayat Raj,
Development and Panchayat Raj,
Panagal Buildings, Saidapet,
Chennai – 15.

3. Dr.P.Shankar, I.A.S.,

The District Collector,
The Nilgiris District.

... Respondents

PRAYER: Contempt Petition has been filed under Section 11 of the Contempt of Courts Act, 1971, to punish the respondents under Section 11 of the



Cont.P.No.2935 of 2014

contempt of Courts Act, 1971 for deliberately and wilfully disobeying the orders of this Hon'ble Court dated 27.11.2013 in W.A.No.2279 of 2011 and pass order.

For Petitioner : Mr.N.G.R.Prasad

For Respondents : Mr.Haja Nazirudeen,
Additional Advocate General,
Assisted by, Ms.Geetha Thamaraiselvan

ORDER

This Contempt Petition is filed by the applicant claiming that the order of the Division Bench dated 27.11.2013 has not been implemented in the letter and spirit. The applicant was appointed as Steno-Typist Grade-III on 27.09.1989 under Rule 10(a)(1) of General Rules for the State and Subordinate Services. Thereafter, he appeared for the examination conducted by Tamil Nadu Public Service Commission. On being successful, he was appointed as Steno-Typist on 24.08.1994. His probation was declared upon completion of probation in November 1996. The Government by G.O.Ms.No.284 Personal Administrative Reforms Department dated 19.08.1992, split up Typist and Steno-Typist into two different categories. While doing so, the Administrative Committee recommended for creation of three different grades of Steno-Typist.

(i). Steno-Typist Grade-I on a scale of pay of Rs1,600-2660,



Cont.P.No.2935 of 2014

(ii). Steno-Typist Grade-II on a scale of pay of Rs.1400-2600,

(iii). Steno-Typist-III on a scale of pay of Rs.1200-2040.

2. It was also recommended that the Steno-Typist Grade-III can be upgraded as Stenographer Grade-I and Grade-II all over the State. These recommendations were implemented and though the appellant was appointed as Stenographer Grade-III, he ought to have been made as Stenographer Grade-II, even as per the G.O.Ms.No.284 dated 19.08.1992. Subsequently, the Government passed another Government Order in G.O.Ms.No.121 dated 18.05.2007, Personal Administrative Reforms Department in an by which a provision for promotion of Steno-Typist Grade-I and Grade-II as Superintendent etc was made and quota of 5% was allotted to those persons who were working as Steno-Typists. This was followed by G.O.Ms.No.47, dated 12.03.2008, which dispensed with the training that was required to be undergone. In the meantime, as per the recommendation of the Hill Area Development Project, the applicant was designated as Steno-Typist Grade-I. The applicant approached this Court in W.P.No.1021 of 2009 seeking Writ of Mandamus, to quash G.O.Ms.No.25 dated 24.03.2008 which provided for redesignation in as much as it gave a prospective effect and the consequential letter issued by the Principal Secretary to Government dated 04.12.2008 and for Mandamus



Cont.P.No.2935 of 2014

directing the respondents to promote the Petitioner as Deputy Block Development Officer with effect from 18.05.2007 namely the date of promotion of his immediate junior with all consequential monetary benefits. This Writ Petition came to be dismissed forcing the petitioner to file an appeal in W.A.No.2279 of 2011. The said Writ Appeal was disposed of on 27.11.2013 by the Division Bench with the following directions.

“15. After considering the entire materials, appellant is entitled to the benefit of the upgraded post from the we feel that date on which he became eligible to the said post viz. Steno-Typist Grade-II and Grade-I respectively. effect in G.O.Ms.No.25 Rural The fixation of the date of Development and Panchayat Raj Dept. dated 24.03.2008 cannot take away the vested right of the appellant. We are convinced to render such a finding in view of the fact that even as on the date of the recruitment of the appellant. the post, in which, he ought to have been accommodated was the post of Steno -Typist-Grade-II. As regards G.O.Ms.No.284 dated 19.08.1992, though proposals were sent by the concerned Head of the Department to the Government, there was inordinate delay in considering the said proposals dated 29.08.1997 and 14.07.1998. In the mean time, subsequent proposals were sent for upgradation of the post of Steno-Typists attached the Project Director, HADP S to Grade-II Stenographers and for upgradation of Stenographer to Grade- 1. Further, in view of the order passed in v.2.6550 of 2006 filed by "Surukkezhuthalargal Sangam" by



Cont.P.No.2935 of 2014

order dated 04.11.2006, G.O.Ms.No.121 P&AR Department dated 18.05.2007 and G.D.Ms.No.47 P & AR Department 097 and 6.0. dated 12.03.2008 was issued to the effect that Steno-Typist, Grade-II and Steno-Typist, Grade-I shall be considered for inclusion in the panel to be drawn for the post of Superintendent In G.O. (2D).No. 25, Rural Development and Panchayat Raj Department dated 24.03.2008, the upgradation of Steno-Typist grade to Grads I and Grade II were notified. In such circumstances the appellant cannot be put to disadvantage for reasons not attributable to him.

16. In view of the above discussion, we hold that the appellant shall be treated as Steno-Typist Grade-II with effect from the date of appointment dated 27.09.1989 and thereafter; his appointment shall be treated as in the post of Steng-Typist Grade I with effect from 28.10.2006, the date on which, GO. (Ms.No.142, Planning Development and Special Initiative Department dated 28.10.2006 came to be issued. Merely because there was correspondences between two Departments and G.D. (2D). No.25 Rural Development and Panchayat Raj (87) Depart dated 24.03.2008 came to be issued only on 24.03.2008 is no reason to deny the benefit of higher scale of pay to the appellant in the post of Steno-Typist-Grade-I. It is more so in the context of G.O (Ms). No.142, Planning Development and Special Initiative Department dated 28.10.2006, which contemplated sanction of Grade I Steno-Typist in the Hill Area Development Programme, Udthagamandalam. Therefore, the inescapable conclusion is that the effect of G.O. (2D).No.25 dated 24.03.2008 should be read as giving effect to G.O. (Ms).No.142, Planning



Development and Special Initiative Dept. dated 28.10.2006, wherein, one post of Steno-Typist-Grade-I was sanctioned for HADE, Udhagamandalam.

17. In the light of the above facts, paragraph 3 of the G.O. (2D).No.25 dated 24.03.2008 should be read down to have the effect from 19.08.1992, viz., when G.O. (Ms.). No. 284 was issued. It is more so in view of the fact that G.O. (Ms.). No.142 dated 28.10.2006 was issued accepting the proposal of the Rural Development for creation of Steno-Typist-Grade-I in the office of Hill Area Development Programme. Therefore, all the three G.Os viz., G.D. (20).No.25 dated 24.03.2008, G.O. (MB) No. 284 dated 19.08.1992 and G.O. (Ms). No.142 dated 28.10.2006 have to be read in a holistic manner and not diverse from each other.

18. Even though a ground was raised by the appellant that having entered in the service as a candidate under Rule 10(a) (1) of the General Rules for State and Subordinate Services on 27.09.1989, he should be granted the benefit of G.O., referred above since the date of his entry viz. 27.09.1989, learned counsel appearing for the appellant restricted the same to the date after passing through Tani 1 Nadu Public Service Commission Examination and recruited as Steno- Typist viz., 24.08.1994. Consequently, a direction is issued to the respondents to rework the appellant's pay scale in terms of G.O. (Ms.).No. 284 dated 19.08.1992 since the date of entry into his service viz., 24.08.1994 and give the benefit of subsequent G.Os referred to above in the scale of pay Rs. 1400-2600 as Steno-Typist Grade-II and from 28.10.2006 as



Steno-Typist-Grade-1 subject to his satisfying other qualifications for consideration to the post of Steno-Typist-Grade-1. The respondents are further directed to consider the order passed by this Court and shall give effect to the same accordingly.”

3. Complaining that, the orders of the Division Bench have not been complied with the applicant has come up with this Contempt Petition.

4. When the matter came up before the Division Bench, consisting of Hon'ble Justice Mr.T.S.Sivagnanam and the Hon'ble Justice Mrs.V.Bhavani Subbaroyan, on 21.03.2019, a claim was made to that effect that the order has been complied with. The Division Bench, however, found that the request of the petitioner was rejected by the Director of Rural Development and Panchayat Raj, *vide* its order dated 23.12.2014. The Division Bench *prima facie* felt that the order made in the Writ Appeal dated 27.11.2013 has not been fully complied with. The petitioner also challenged the order dated 23.12.2014 in a separate Writ Petition in W.P.No.941 of 2017. The Division Bench gave liberty to the petitioner to move the Registry for tagging the Writ Petition along with the contempt petition. Thereafter, when the matter came up before another Division Bench consisting of Hon'ble Justice Mr.M.Duraisamy and Hon'ble



Cont.P.No.2935 of 2014

Mr.J.Sathya Narayana Prasad, it was brought to the notice of the Division

WEB COPY Bench that the District Collector, Nilgiris passed an order on 08.02.2021 recommending promotion of the petitioner with effect from 2008, however, he chose to withdraw the same by order dated 23.11.2021. The Division Bench observed that the withdrawal may not be correct and adjourned the matter on 20.01.2022, directing the District Collector, Nilgiris District, to appear before this Court and explain the reasons for withdrawing the order dated 08.02.2021. At this juncture, the contempt petition and Writ Petition are before before us.

5. Heard Mr.N.G.R.Prasad, Learned Counsel appearing for the applicant and Mr.Haja Nazirudeen, Learned Additional Advocate General appearing for the respondents.

6. Mr.N.G.R.Prasad, Learned Counsel for the applicant would vehemently contend that when the Division Bench had directed that the petitioner should be favoured with all attendant benefits that would accrue to him, if he had been upgraded as Steno-Typist Grade-I in the year 1999, should be granted to him. Unless those benefits are granted and the consequent promotions contemplated under G.O.Ms.No.121, dated 18.05.2007 and G.O.Ms.No.47 dated 12.03.2008 are granted to the applicant, it can not be said



Cont.P.No.2935 of 2014

that, there is a complete compliance of the order of Division Bench. He would point out that having become Stenographer Grade-I in the year 1999, the petitioner ought to have been considered for promotion as a Deputy Block Development Officer, even in the year 2008, since he would have completed the required service by then. According to him, not granting him promotion from the year 2008 and claiming that, he would be entitled for promotion only from 2014, would still amount to disobedience of the order of the Division Bench.

7. Contending contra, Mr.Haja Nazirudeen, Learned Additional Advocate General appearing for the respondents would submit that even assuming that the petitioner has become Stenographer Grade-I in the year 1999, the benefits of promotion were conferred on Steno- typists Grade-I only by way of G.O.Ms.121, dated 18.05.2007 and therefore, he cannot claim benefit which was not available as on the date of his confirmation as Stenographer Grade-I.

8. Further, the Learned Additional Advocate General would also point out that the Collector in his proceedings dated 23.11.2021, where he withdrew the earlier letter dated 08.02.2021, had very clearly stated that the



Cont.P.No.2935 of 2014

vacancies in the post of Deputy Block Development Office/Superintendent arose only in the year 2014-2015. He would also point that the ratio for promotion is 95:5 and therefore, only if the total number of vacancies in a year reach 19, 1 person from steno-typists would be promoted. It is conceded that, the applicant is the senior most person in the cadre of Steno-Typist in the District and he would be entitled for promotion when the very first vacancy arose in the District. According to the Official respondents, the very first vacancy arose only in the year 2014-2015 when the total number of vacancies exceeded 19. Therefore, at the earliest opportunity, the petitioner has been granted promotion with effect from 2014. This according to Mr.Haja Nazirudeen, Learned Senior Counsel for the respondents would be in substantial compliance of the orders of the Division Bench. If the petitioner is aggrieved by the conclusion of the official respondents regarding the ratio of promotion and regarding the time at which the vacancies arose in the promoted post, he may have to challenge the order dated 23.11.2021. He can not canvass the correctness of the order in the contempt proceedings.

9. We have examined the rival submissions. No doubt, the Division Bench had directed that the contempt petitioner should be given all benefits that would accrue to him as per the relevant Government Orders. Accordingly, the petitioner was treated as Stenographer Grade-I and considered for promotion



Cont.P.No.2935 of 2014

but the promotion could be given to him only with effect from 2014-2015 by placing him at No.3-A in the list of seniority for promotion to Deputy Block Development Officer of the year 2014-2015. Though, we see some force in the contentions of Mr.N.G.R.Prasad, Learned Counsel appearing for the contempt petitioner, we are afraid that, we can not embark upon an enquiry as to whether the promotion given by proceedings dated 25.01.2022, from 2014-2015 is right or wrong in the contempt proceedings. Some reason has been assigned in the order dated 23.11.2021 for withdrawal of the earlier proposal to grant promotion with effect from 2008. The correctness or validity of those reasons cannot be tested in the contempt proceedings.

10. We find a substantial and genuine attempt to comply with the orders of this Court. We, therefore, do not think that this contempt petition should be converted into a fresh Writ Petition, to enable the petitioner to mount a challenge over the reasons ascribed by the Collector in his order dated 23.11.2021. We, therefore, close the contempt proceedings with liberty to the petitioner to challenge the order dated 23.11.2021, if he is so advised. It is made clear that whatever monetary benefits of the petitioner is entitled to, if not disbursed till now, should be disbursed within a period of eight weeks from today. No costs.



Cont.P.No.2935 of 2014

WEB COPY

(R. SUBRAMANIAN, J.) & (SATHI KUMAR SUKUMARA KURUP, J)

23.12.2022

Index : No.
Internet : Yes.
Speaking order
bsm

To,

1. The Principal Secretary to Government,
Rural development and Panchayath Raj (E7), Department,
Secretariat, Chennai – 9.
2. The Director of Rural Development and Panchayat Raj,
Development and Panchayat Raj,
Panagal Buildings, Saidapet,
Chennai – 15.
3. The District Collector,
The Nilgiris District.



WEB COPY



Cont.P.No.2935 of 2014

R. SUBRAMANIAN,J.
&
SATHI KUMAR SUKUMARA KURUP, J.

bsm

Contempt Petition No.2935 of 2014

23.12.2022