



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Cont.P. (MD) No.1280 of 2021
in
W.P. (MD) No.17140 of 2020

V.Chelladurai ... Petitioner/ Petitioner
-vs-

1.Thiru.Thiruvambalampillai,
Managing Director,
Tamil Nadu State Transport Corporation (Madurai) Limited,
Bye Pass Road, Madurai-16.

2.Thiru.Sivalingam,
General Manager,
Tamil Nadu State Transport Corporation (Madurai) Limited,
Virudunagar Region, Virudhunagar.

3.Bhama,
The Administrator,
Tamil Nadu State Transport Corporation
Employees Pension Fund Trust,
Pallavan Salai, Chennai-2.

...Contemnors/ Respondents

Prayer:- Petition filed under Section 11 of the Contempt of Courts Act to punish the respondents for committing contempt for the wilful disobedience of the order in W.P.(MD).No.17140 of 2020 dated 04-12-2020.

Prayer in WP(MD). 17140/ 2020 :

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 sanction the Last Increment notionally which fell due on 1.7.2016 in the light of the Judgment of this Honble High Court Reported in 2011 Writ L.R.728 in WP.No. 22589/2010 dt. 3.8.2011 which was confirmed by the Division Bench Judgment of this Honble High Court in W.A.No. 2095/2011 dt. 10.11.2011 and by the Honble Supreme Court in CC No. 10842/2013 dt. 4.7.2013 and in terms of G.O.Ms.No.140 Finacne (Pay Cell) Dept. dt. 25.04.2018 and consequently to settle the arrears of Pension with consequential benefits along with 7th Pay Commission Arrears with interest at the rate of 18 percent p.a.



For Petitioner : Mr.S.Govindan
For Respondents : Mr.J.Senthil Kumaraiah,
Standing Counsel

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O R D E R

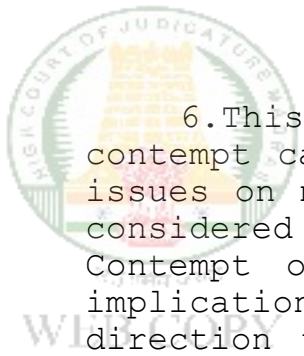
The contempt petition has been filed to punish the respondents for their wilful disobedience of the orders passed by this Court on 04.12.2020 in W.P.(MD) No.17140 of 2020.

2.The learned counsel for the petitioner mainly contended that the spirit of the order passed by this Court has not been complied with in its terms and therefore, the respondents are liable to be convicted under the Contempt of Courts Act.

3.The learned counsel for the petitioner is of an opinion that the Court directed the respondents to consider the case of the writ petitioner based on his representation and in the light of the Government Order passed in G.O.Ms.No.140, Finance (Pay Cell) Department dated 25.04.2018. However, now the respondents passed an order of rejection stating that the said G.O., is not applicable. Copy of the G.O., has been communicated to all State-Owned Corporations and Statutory Bodies by the Government. When the copy of the G.O., has been communicated to the Corporation, the Government Order is to be applied to the Transport Corporation employees also. Thus, the order of rejection amounts to Contempt of Courts Act.

4.Further, the learned counsel for the petitioner made a submission that this Court while passing an order in the writ petition directed the respondents to consider the order passed in W.P.(MD) No.12322 of 2017 dated 05.07.2017.

5.The learned Standing Counsel for the respondents made a submission that the observations made by the Court are only for the purpose of considering the case of the writ petitioner with reference to the representation submitted and the issues were not adjudicated nor a positive direction was granted to settle certain benefits to the petitioner. This Court directed the respondents to consider the representation in the light of the Government Order and the Court Order as referred above. Thus, the authorities competent considered the representation with reference to the Government Order and found that the Government Order is not applicable to the employees of the Transport Corporation. Therefore, they have taken a decision to reject the representation and accordingly, passed an order in proceeding dated 28.09.2021 and thus, there is no disobedience of the orders of this Court and accordingly, the contempt petition is to be rejected.



6.This Court is of the considered opinion that the scope of contempt cannot be expanded for the purpose of adjudication of the issues on merits. The orders passed by the Courts alone are to be considered for the purpose of invoking the provisions of the Contempt of Courts Act. The spirit of the directions and the implications are to be considered and it is not as if an order of direction to consider the representation is to be construed as an order of direction issued in favour of the writ petitioner to decide the issues in the representation in favour of the petitioner. Thus, in the absence of any positive direction to the respondents to grant certain benefits, the Court would not be in a position to interpret an order directing the authorities to consider the representation under the pretext that the said order confers a right to get favourable orders from the respondents.

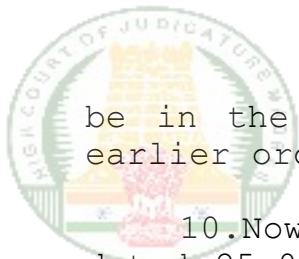
7.There is a growing trend of sending representations then and there and based on that, writ petitions are filed and routine orders of direction to consider the representations are issued. Such orders would not do any service to the cause of justice. Contrarily, it results in multiplicity of proceedings. Writ petitions after writ petitions are filed based on such directions. Otherwise, the litigants are working out in a corruptive manner to get a favourable order based on such direction to consider the representation. There is every possibility that the authorities are acting in collusion with the litigants in the event of passing such an order to consider the representation. Therefore, this Court is of the considered opinion that in every writ petition, the issues are to be decided on merits and the rights of the parties are to be crystallised enabling the authorities to grant the relief in the manner known to law.

8.In the present case, this Court passed an order on 04.12.2020 as follows:-

"7.In view of the submissions made by the learned counsel on either side, this Court is inclined to pass the following directions:- the respondents are directed to consider the petitioner's representation dated 16.09.2020 and pass appropriate orders, in the light of G.O.Ms.No.140, Finance (Pay Cell) Department, dated 25.04.2018 and the order of this Court made in W.P.(MD) No.12322 of 2017 dated 05.07.2017, within a period of eight weeks from the date of receipt of a copy of this order;

8.With the above direction, the Writ Petition stands disposed of. No costs."

9.Let us consider the nature of the order passed by this Court. The respondents were directed to consider the petitioner's representation dated 16.09.2020. However, such consideration must



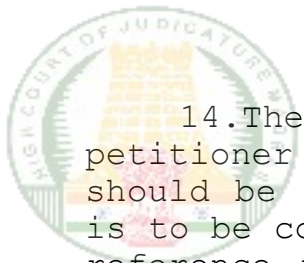
be in the light of the Government Order and in the light of the earlier order passed by this Court.

10.Now, looking into the Government Order, in G.O.Ms.No.140, dated 25.04.2018, this Court is of the considered opinion that the petitioner relies that the copy is marked to the Transport Corporation Authorities. However, in the Government Order, there is no indication that the order is directly applicable to the employees of the Transport Corporation. Mere marking of a copy by the Secretariat in respect of the G.Os., cannot be construed as if the benefit of the G.O., is extended to the Transport Corporation employees. Copies are marked to all the authorities in a routine manner and such marking of the copy would not confer any right to claim certain benefits, unless the Government Order specifically states that the benefits are to be extended to the employees of the Corporation.

11.Now, let us consider the order relied on by the petitioner dated 05.07.2017 passed in W.P.(MD) No.12322 of 2017. The said order indicates that it is not the case of Transport Corporation. The writ petitioner in the said writ petition was an employee of Cooperative Department and she was working as Cooperative Sub Registrar. Therefore, she is a Government employee and in those circumstances, this Court passed an order. Thus, such an order passed in respect of the Government employees cannot have any implication directly in respect of the employees of the Transport Corporation.

12.In respect of Corporations, Government undertakings and other public sectors if at all the Government has passed an order, it is to be extended to such Corporations either by the Government or the Corporations have to adopt the Government Order for the purpose of implementation of such Government Orders, as these supervising cadres are falling under the common cadre service rules, which is not connected with the Government Service Rules.

13.Perusal of the reference made by the petitioner clarifies that neither the Government Order speaks about the Transport Corporation employees, nor the order passed by this Court in W.P. (MD) No.12322 of 2017 relates to the employees of the Transport Corporation. However, this Court, based on the representation made on behalf of the petitioner, made an observation that the G.O., is to be looked into while considering the representation submitted by the petitioner. Thus, this Court in the writ petition has not adjudicated the scope of the Government Order or the scope and application of the Government Order or the order passed in the earlier writ petition. In such circumstances, the direction given to the authorities to consider the representation would not confer any right or provide an implied meaning that the authorities should pass an order in favour of the writ petitioner.



14.The tenor of the argument of the learned counsel for the petitioner is that once it is observed that the representation should be considered in the light of the Government Order, then it is to be considered in favour of the writ petitioner and there is no reference in the Government Order. Such an argument is unknown to law and this Court is of the opinion that mere reference made by the Courts to consider the representation would not confer any right and it is for the authorities to look into the matter and then take a decision based on the representation. This exactly is the reason why the Courts are little reluctant in issuing such orders of direction to consider the representation.

15.In view of the facts and circumstances, this Court is of the considered opinion that the respondents have not committed any wilful disobedience of the orders passed by this Court and in compliance of the order, they have passed an order in proceeding dated 28.09.2021 rejecting the claim of the writ petitioner and thus, the contempt petition stands closed.

Sd/-

Assistant Registrar (T&P)

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/ /2022

Sub Assistant Registrar

To

1.Thiru.Thiruvambalampillai,
Managing Director,
Tamil Nadu State Transport Corporation (Madurai) Limited,
Bye Pass Road, Madurai-16.

2.Thiru.Sivalingam,
General Manager,
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