



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.02.2022

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Cont.P(MD)No.896 of 2019

G.Senthil Kumar

... Petitioner/Petitioner

Vs.

C.Senthil Kumar,
The President,
DD 164, Southern Railway Employees,
Consumers Co-operative Stores Limited,
Dindigul District.

... Contemnor/4thRespondent

PRAYER: Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971, to punish the Contemnor/4th respondent for his wilful disobedience of the judgment passed by this Court in W.P(MD) No.11919 of 2017, dated 27.11.2018.

Prayer in WP(MD). 11919/ 2017 :

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 disburse the arrears of the subsistence allowance from October 2016 and further subsistence allowances to be granted in future to the Petitioner by considering the representations, and pass such other or further orders as this Honble Court.

For Petitioner : Mr.R.Venkatesan

For Respondent : Mr.S.Sreenivasagan

ORDER

The contemnor, in compliance with the direction of this Court to pay the subsistence allowance, has filed the calculation memo stating that the order of this Court has been scrupulously complied and had stated that the subsistence allowance has been paid to the petitioner herein as below:

@50% of last drawn wages for the period
from 08.08.2015 to 13.12.2015 Rs.2,375/-

@75% of last drawn wages for the period
from 14.12.2015 to 04.02.2016 Rs.21,760/-

@100% of last drawn wages for the period
from 05.02.2016 to 08.10.2016 Rs.1,01,167/-



@50% of last drawn wages for the period
from 09.10.2016 to 30.01.2019 by cheque Rs.2,09,337/-

@50% of last drawn wages for the period
from 10.02.2019 to 15.05.2019 by cheque Rs.26,504/-

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2. The learned counsel for the petitioner would state that the petitioner is entitled for 100% subsistence allowance whereas he was paid only 50% of the last drawn wages from 09.10.2016 to 15.09.2019.

3. From the calculation memo, this Court finds that the petitioner was placed under suspension for misappropriation of the society fund and was paid 50% subsistence allowance from 08.08.2015 to 13.12.2015 and 75% of the subsistence allowance from 14.12.2015 to 04.02.2016. Thereafter 100% subsistence allowance till 08.10.2016.

4. Since the payment of subsistence allowance was stopped, this writ petition was filed and this Court, considering the merits of the case, directed the respondent/condemnor to pay subsistence allowance till the disposal of the departmental proceedings. From the calculation memo, this Court finds that the petitioner was not paid 100% subsistence allowance, but a little above 50% of the basic pay. Though it is not in strict compliance of the order of this Court, it is now brought to the notice of this Court that the petitioner herein misappropriated more than Rs.30,00,000/- of the society fund found guilty in the departmental proceedings and dismissed from service on 15.05.2019.

5. Per contra, the learned counsel for the petitioner states that the dismissal order was challenged and same was set aside in the subsequent proceedings. However, there is no material placed before this Court regarding the subsequent event. If the petitioner is restored in service, it is needless to say that he will be paid back wages, if there is any order to that effect. Shortage of payment of subsistence allowance, therefore, will not amount to willful disobedience of the order of this Court.

6. Recording the above, this contempt petition is closed.

Sd/-

Assistant Registrar (T&P)

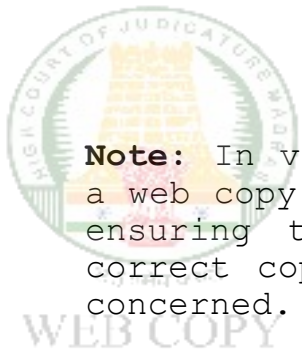
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/ /2022

Sub Assistant Registrar(CS)

PJL

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



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.

To
The President,
DD 164, Southern Railway Employees,
Consumers Co-operative Stores Limited,
Dindigul District.

+1 CC to M/s.RIGHT LAW ASSOCIATES, Advocate (SR-3444[F] dated
01/02/2022)

+1 CC to M/s.S.SEENIVASAGAM, Advocate (SR-3599[F] dated 02/02/2022)

Cont.P(MD) .896 of 2019
01.02.2022

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