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Cont.P.No.1071/2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 14-09-2023

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

CONTEMPT PETITION No.1071 of 2023

I.Jayaraj

...

Petitioner

-VS-

1.Prof.Kamakoti Veezhinathan,
The Director,
Indian Institute of Technology, Madras,
Chennai – 600 036.

2.Prof.T.Thyagaraj,
The Chairman,
Council of Wardens & Hostel Management,
Indian Institute of Technology, Madras,
Chennai – 600 036.

...

Respondents

Contempt Petition has been filed under Section 11 of the Contempt of Courts Act, 1971, to initiate contempt proceedings against the respondents herein and punish them for non-implementation of the consent order passed by this Court in W.A.Nos.332 and 102 of 2022, dated 09.03.2022.

For Petitioner : Mr.G.Purushothaman

For Respondents : Mr.Karthick Rajan



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ORDER
(By S.Vaidyanathan,J.)

This Contempt Petition has been filed alleging non-compliance of the judgment passed by a Division Bench of this Court in W.A.Nos.332 and 102 of 2022, dated 09.03.2022. The relevant paragraphs of the said judgment are extracted below :

"4. The parties were persuaded by this Court for an amicable settlement looking into the fact that the workman is now a practising Lawyer from the year 2012. Therefore, no purpose would be served in contesting the matter further. Learned counsel for the Management had initially shown difficulty to accept the matter for settlement, but on instructions, the parties have agreed to settle the matter on the following terms:

(i) The order of dismissal be treated to be one of compulsory retirement with effect from January 2012, being the month when the workman entered into the profession of Advocate.

(ii) The workman would be entitled to pension as a consequence thereof, but he has to forego the claim of pension for the intervening period till the month of December 2019, and thereby, he would be entitled to pension only with effect from 01.01.2020.

(iii) The workman would not be entitled to any other benefit, except payment of Gratuity only for the period of actual service. The pensionary benefit would however be taken for the entire period till the date of compulsory retirement.

(iv) The workman would not be entitled to any other benefit which includes reinstatement or any other benefit than the one directed above.

5. The benefit arising out of the aforesaid directions, shall be extended to the workman within a period of four months after proper fixation of his entitlement."



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2. Both the parties agreed that it was a consensual order.

3. Mr.G.Purushothaman, learned counsel for the petitioner, would submit that the employer has paid gratuity for the actual service rendered for a period of 16 years between 01.10.1980 and 14.12.1996, the date on which the petitioner was dismissed from service. However, the order of dismissal was converted into one of compulsory retirement by the Division Bench. Based on the modification of the punishment vide the judgment, dated 09.03.2022, in the aforesaid Writ Appeals, the date of dismissal alone got postponed to 01.01.2012 for the purpose of extending pensionary benefits and the punishment of dismissal was converted into one of compulsory retirement.

4. Mr.Karthick Rajan, learned counsel for the respondents, would submit that initially two-third of pensionary benefit was granted to the petitioner and, thereafter, on his advice, the employer has paid the difference in amount and that the petitioner has got the full pension based on the last drawn pay, which he was drawing on the date of dismissal. He would further submit that there is no contempt much less wilful or deliberate disobedience of the orders of this Court. According to him, this Court has not granted any other benefits as could be seen from the order, which is extracted supra, and that the Court has specifically mentioned that the employee would not be entitled to any other benefits including reinstatement or other benefits than the one mentioned in Paragraph 4.



5. In reply, Mr.G.Purushothaman, learned counsel for the petitioner, would vehemently contend that on completion of every eight years of service, the wages will have to be revised and the revision taken into account for the purpose of extending the pensionary benefits.

6. We are not willing to accept the above contention of the petitioner. Paragraph 4 of the judgment will have to be read in toto and not in isolation. A reading of the same would make it very clear that the petitioner would be entitled to gratuity for the actual service rendered and on account of the postponement of dismissal to a later date i.e., 01.01.2012 and conversion of dismissal into one of compulsory retirement, he would be entitled to pension. The Court has postponed the date only for the purpose of enabling the petitioner to get pension and not otherwise. Hence, pension has to be paid only based on the last drawn pay the petitioner was drawing on the date of dismissal and subsequent revision, if any, cannot be taken into account.

7. In view of the above, we are of the view that there is no contempt, much less wilful and deliberate disobedience of the orders of this Court by the respondents.

8. Contempt Petition is, therefore, closed and the contemnors are discharged.

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(S.V.N.,J.) (K.R.S.,J.)
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To

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Chennai – 600 036.
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The Chairman,
Council of Wardens & Hostel Management,
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