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WMP No.20533 of 2022 in
WMP No.7950 of 2022 in
WP No.35161 of 2019

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in W.P.No.35161 of 2019

THE ACTING CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY ,J

ORDER
(Made by the Hon'ble Acting Chief Justice)

This petition has been filed by Mr.N.Subramaniyan, S/o. Nallianna Gounder, to recall the order dated 22.04.2022 passed in WMP No.7950 of 2022 in W.P.No.35161 of 2019 or to expunge all the adverse remarks made against him in paragraph 3, 4 and 5 of the said order.

2. Mr.Balan Haridas, learned counsel appearing for the petitioner submitted that this Court, in paragraphs 3, 4 and 5 of its order dated 22.04.2022, has made certain adverse remarks against the petitioner, who is a practising lawyer in this Court for more than 18 years, that he has taken efforts to scandalise and lower the authority of the Court by his averments in the affidavit filed in WMP



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No.7590 of 2022 and held that the same would fall within the definition of criminal contempt. He contended that the petitioner had only attempted to place on record the factual aspects and to ensure that no error is found in the order and not to scandalise or lower the authority of the Court. Hence, he pleaded that the adverse remarks made against the petitioner may be expunged.

3. The relevant portion of the order, which led to the filing of this petition, reads as under:

"3. We have perused the application and found that learned counsel for the applicants at the end of paragraph 3(v) of the affidavit averred that the State invoked Section 47(1) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 violating the judgments of this Court and the Supreme Court and, therefore, the applicants were forced to file this writ petition. We find that in the subsequent paragraphs, the effort of learned counsel for the applicants is to scandalise and lower the authority of this court.

4. In the application to seek recall of the order,



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certain portion of the order has been quoted with an allegation that without adjudication and without hearing the counsel on merit, the order was passed, whereas learned counsel for the applicants was heard on the issues before this court. The statement of fact has been narrated making serious allegations against the court, which squarely falls within the definition of “criminal contempt”.

5. In view of the above, we take suo motu cognizance to issue notice for initiation of the criminal contempt against Mr.N.Subramaniyan, advocate for the applicants, son of Nallianna Gounder, residing at F9, Vasanth Apartments, 100 Feet Bye-Pass Road, Velachery, Chennai-42. It is taking into consideration the nature of allegation to scandalise and lower the authority of the court. He should be caused with a notice in reference to the application and the allegations made therein. "

4. The facts which led to the above observations are as under.

The petitioner has filed the writ petition, W.P.No.35161 of 2019, challenging Section 47(1) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016. When the Court questioned as to



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what was wrong in the provision, the petitioner, as the counsel, submitted that the writ petition challenged the provision only insofar as it was construed to enable the State to get over the judgments of this Court and the Apex Court and read out the prayer in order to emphasise that the writ petitioners were not concerned with the interpretation or construction of the provision under Section 47(1) of the Act.

5. Thereafter, the petitioner submitted that he would refer to the judgments that were violated invoking the impugned provisions which necessitated the writ petitioners to file the writ petition and read out the paragraphs of binding judgment of this Court and also the Apex Court that were violated by this Court only to establish and substantiate the cause for filing writ petition. However, before he completed the reading of the relevant paragraphs, this Court started dictating the order. Hence, the petitioner intervened and submitted that he had not argued the grounds of challenge. However, this Court continued with the dictation and hence, the petitioner stopped his



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submission in order to maintain the decorum of the Court.

6. After completion of the dictation, the petitioner submitted that he had not argued the grounds of challenge and therefore, he requested the Court to hear him further. But, the Court observed that they were not there to teach him as to how to argue the case. Immediately, the petitioner tendered his apology and submitted that he read out the judgments only to demonstrate as to how the State has blatantly violated the judgments of this Court and the Supreme Court. He further submitted that it was his duty to set right the factual aspects in the record of this Court and hence, out of anxiety, he attempted to intervene the Court during the dictation of the order, which was mistaken by the Court resulting in certain adverse remarks, which squarely falls within the definition of criminal contempt.

7. A perusal of the affidavit filed by the petitioner would show that he has highest regard to this Court and at no point of time, he would challenge the majesty of this Court. As a law officer of the



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Court, it is his duty to assist the Court and to place the factual aspects before the Court, which has been mistaken by this Court. The relevant portion of the affidavit reads as under:

"7. I respectfully state that the observations/remarks against me obtaining in paragraphs 3, 4 and 5 of the said order of this Hon'ble Court dated 22.04.2022, creates a serious stigma in my entire professional career. i further, submit that I have not ever even imagine or dreamt to scandalize or lower the authority of this Hon'ble Court. I consider the judges of this Hon'ble Court as deities in the temple of justice. The efforts I have put in paragraphs after 3(v) of my affidavit is only to persuade this Hon'ble Court to prevent the habitual violation of the judgments of this Hon'ble Court and Hon'ble Supreme Court by the State under the guise of invoking powers u/s 47(1) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 and not at all I have not ever even remotely thought of undermining the authority of this Hon'ble Court. I humbly submit that the said remarks if allowed to stand in the judicial records of this Hon'ble Court would ruin my reputation and it would me more severe than a death



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sentence to me."

8. We have seen Mr.N.Subramaniyan, the petitioner herein, who has been assisting this Court in several matters. We have never seen any misrepresentation or false statement made by him and at no point of time, he has exceeded his limits. As a law officer of the Court, he has attempted only to put forth the correct facts, in order to set right the factual aspects in the record of this Court. As the Court started dictating the order, out of anxiety, he intervened, which made the Court to feel that he has attempted to lower the authority of the Court. It seems that it was never his intention to scandalise or lower the authority of the Court. More over, he has tendered his apology for intervening while dictating the order.

9. In view of the fact that the act of the petitioner, which led to the passing of adverse marks, was only to emphasise his case and not with an intention to lower the authority of the Court, the adverse remarks made against him in paragraphs 3, 4 and 5 of the order



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dated 22.04.2022 in WMP No.7950 of 2022 in W.P.No.35161 of 2019
are expunged and this petition is ordered accordingly.

(T.R., ACJ.) (D.B.C., J.)
09.01.2023

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T.RAJA, ACJ,
and
D.BHARATHA CHAKRAVARTHY,J

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