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Cont.P.No.2748 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Cont.P.No.2748 of 2023

R.Ramasubramanian
S/o.Ramadoss

...Petitioner

-Vs-

1. Thiru Sathyamoorthy
Chief Engineer,
Public Works Department (General),
Chepauk, Chennai – 600 005.

2. Dr.Sandeep Saxena, IAS,
Secretary to Government,
Public Works Department,
Fort St.George, Chennai – 600 009.

... Respondents

Prayer : Contempt Petition under Section 11 of the Contempt of Courts Act, 1971 to punish the respondents for committing contempt of the order of this Court dated 22.02.2021 made in W.P.No.18431 of 2008.

For Petitioner : Mr.C.Karthik

For Respondents : Mr.Vadivelu Dheenadayalan
Additional Government Pleader



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ORDER

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This contempt petition has been filed for the alleged disobedience of the orders of this Court dated 22.02.2021 made in W.P.No.18431 of 2008.

2. In the said order, in the operative portion this Court passed the following order:

“49. In the result, the following orders are passed in this writ petition:

(i) that the impugned order is sustained, therefore the writ petition deserves to be dismissed. Accordingly, it is dismissed.

(ii) However, in view of the peculiar circumstances, which has been discussed above, there shall be a direction to the respondents, i.e., the Disciplinary Authority, to review the punishment by deciding the Review Petition already filed by the petitioner and while reviewing the same by taking a pragmatic view with equity, the Disciplinary Authority shall pass an order deciding to give a reduced punishment to the petitioner.

(iii) The needful as indicated above shall be undertaken by the Disciplinary Authority, within a period of three months from the date of receipt of a copy of this



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order and in this context, the petitioner is directed to send a copy of this order along with the copy of the review petition, which has already been filed and it is stated to be pending before the Department, within a period of two week from the date of receipt of a copy of this order.

50. With the above direction, this writ petition is dismissed. No costs."

3. Pursuant to the said order, the respondent has reviewed the punishment of dismissal of service inflicted against the petitioner and passed a revised order vide letter dated 08.05.2023, which reads thus:

"I am directed to invite your attention to the references cited and to state that the Hon'ble Court in its order dated 22.02.2021 had directed the respondent to pass an order imposing a reduced punishment than that passed in the Government Order first cited. Based on the said order of the Hon'ble Court, the punishment of 'removal from service' imposed on Thiru R.Ramasubramanian, formerly Assistant Engineer, Water Resources Department in the Government order first cited had been modified as 'compulsory retirement' in the Government order third cited, for the charges held proved in the disciplinary proceedings against him, which is a reduced punishment as indicated by the Hon'ble Court, for the said punishment



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would enable the individual to receive his pension and Death-cum-Retirement Gratuity which would be fixed as per Rule 39 of the Tamil Nadu Pension Rules, 1978 after regulating the period of suspension undergone by him.”

4. Despite this order having been passed, it is a contention of Mr.C.Karthik, learned counsel appearing for the petitioner that the orders of this Court has not been complied with or it has been violated or there has been willful disobedience of the orders of this Court, therefore, on the alleged ground of non-compliance of the orders of this Court, this contempt petition has been moved.

5. Heard Mr.Vadivelu Dheenadayalan, learned Additional Government Pleader appearing for the respondent, who would submit that the punishment awarded against the petitioner having been considered was accepted and sustained by the orders of this Court, where the writ petition was dismissed. However, a direction was given to consider the review application seeking to review the punishment given or inflicted against the petitioner.



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6. In that direction, the Court had indicated that while reviewing the same by taking a pragmatic view with equity, the Disciplinary Authority shall pass an order deciding to give a reduced punishment to the petitioner. Accordingly, by taking pragmatic view, a reduced punishment of compulsory retirement from dismissal of service have been imposed by the present order dated 08.05.2023. Therefore, in total the orders passed by this Court in fact has been complied with. Despite that, this contempt petition has been filed, therefore, it cannot be persuaded further, the learned Additional Government Pleader contended.

7. I have considered the rival submissions made by the learned counsel appearing for both sides and have perused the materials placed before this Court.

8. As has been rightly pointed out by the learned Additional Government Pleader appearing for the respondent, in fact the writ petition was dismissed by order dated 22.02.2021. However, a direction



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that was given in paragraph 49(ii) of the order as has been extracted herein above and pursuant to such direction, the review application has been taken up and a pragmatic view also has been taken by the respondent, where as directed by this Court, a reduced punishment from dismissal from service to compulsory retirement has been inflicted.

9. When that being so, it cannot be stated that the orders of this Court has not been complied with, even though the learned counsel for the petitioner had contended that, earlier the major punishment of removal of service has been inflicted, subsequently also yet another major punishment of compulsory retirement has been made against the petitioner, therefore, it cannot be treated as a reduced punishment.

10. This argument cannot be accepted because, a major punishment cannot be converted into a minor punishment automatically and no such direction has been given by this Court, in fact, the writ petition was dismissed, thereafter, normally Court will slow to give these kind of directions but in this case considering the peculiar circumstances of the case, such a direction was given to consider the said review application



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with equity basis by taking a pragmatic view. Therefore, that has been considered and a reduced punishment was directed to be considered for inflicting against the petitioner that was also be considered and a reduced punishment of compulsory retirement has been given. By virtue of that, the petitioner now is entitled to get the service benefits including retirement as well as pensionary benefits.

11. When that being the position, a considerable improvement has been shown and this cannot be treated as any violation of the orders of this Court.

12. Moreover, once a major punishment of dismissal of service has been inflicted, a reduced punishment means not minor punishment but another punishment in the major punishment also can be reduced punishment and therefore, the present reduced punishment awarded by the State Government/respondent by its order dated 08.05.2023 is strictly in consonance with the directions issued by this Court.

13. Hence, this Court has no hesitation to hold that the orders of



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this Court has been complied with fully, therefore this contempt petition cannot be entertained. Accordingly, it is deserve to be closed, hence, it is closed.

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Index : Yes/No
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R.SURESH KUMAR, J.

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