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Contempt Petition No.2 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 3/4/2023

C O R A M

THE Hon'ble Mr.Justice D.KRISHNAKUMAR

a n d

THE HONBLE Ms.Justice K.GOVINDARAJAN THILAKAVADI

Contempt Petition No.2 of 2023

R. Mageshwari ... Petitioner

Vs

1. N. Muruganandam

2. K. Manivasan

3. Sandeep Saxena ... Respondents

PRAYER : Contempt Petition filed under Section 11 of Contempt of Courts Act, 1971, to punish the respondents for their willful disobedience and defiance of the order of this Court, dated 27/4/2021 in C.M.P.Nos.8102 of 2021 in W.A.No.1275 of 2021.

For appellant ... Mr.M.Mahamani

For respondents ... Mr.C.S.Vaidyanathan
Senior Advocate
Supreme Court of India
for
Ms.C.N.G.Niraimathi



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Mr.J.Ravindran
Additional Advocate General
Assisted by
Mr.L.S.M.Hasan Fizal
Additional Government Pleader
for R.R.2 and 3.

ORDER

(Order of the Court was made by D.KRISHNAKUMAR, J)

This Contempt Petition has been filed to punish the respondents for their willful disobedience and defiance of the order of this Court, dated 27/4/2021, in C.M.P.Nos.8102 of 2021 in W.A.No.1275 of 2021.

2. The facts leading to disposal of the Contempt Petition are as follows:-

Challenge was made to G.O.Ms.No.71, Finance Cell Department, dated 26/2/2011 and consequently, pay in terms of G.O.Ms.No.283, dated 26/8/2010 had been considered by the Division Bench and by a common order, dated 27/2/2014, had disposed of the writ appeal. The said common judgment was challenged before the Hon'ble Supreme Court and after



entertaining, Special Leave Petitions were converted as Civil Appeal Nos.10029, 10030 – 19189, 10190, 10191 and 10192 of 2017 and vide, common judgment, dated 28/11/2019, appeals were disposed of. Being aggrieved, writ petitions have been filed before this Court as well as Madurai Bench of Madras High Court and interim orders were granted. Following the same, vide, order, dated 27/4/2021, a Hon'ble Division Bench of this Court has ordered thus:-

“It is also to be noted that at this juncture, any interim protection is always subject to the result of the writ petitions, subject to the appellant in W.A.Nos.1271, 1273 and 1275 of 2020 filing affidavit of Undertaking that in the event of they being unsuccessful in the pending writ petitions, they will pay back the salary and emoluments received pursuant to the interim orders passed in the writ petitions.

14. There shall be stay of operation of the impugned interim order dated 19/4/2021 in W.M.P.No.2074/2021 against



W.M.P.No.25168/2020 in W.P.No.20397/2020 till
3/6/2021 and the affidavit of undertaking shall be
filed on or before 1/6/2021.”

3. Since non-compliance of the order, affects the petitioner's right to enjoy the fruits of interim order, instant Contempt Petition has been filed.

4. Reply affidavit has been filed by the respondents, wherein, it is stated that in the Government Letter No.36432/CMPC/2022-1, dated 19/11/2022, it has been clarified that the employees who were working in 52 categories included in G.O.Ms.242, Finance (Pay Cell) Department, dated 22/7/2013, which they were holding at the time of filing writ petitions and obtained stay orders from this Court against the reduction in pay scales ordered in G.O.Ms.No.399 to 422, Finance (Pay Cell) Department, dated 12/11/2020 are entitled for annual increments, selection grade/special grade, increment for promotion and additional charge allowance.

5. This Court has directed the State not to reduce the scales of pay of the petitioner and no issue was raised and answered that the petitioner is entitled to the unintended higher scales of pay in whatever post they are



serving the disposal of the writ petition.

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6. Since these respondents are conscious of the fact that he is making his reply in a contempt petition, the respondent is refraining from entering into the merits of the case and submitted that the writ petitioner and similarly situated persons are not entitled to higher scale of pay in the promoted category.

7. The said G.O., has been stayed and revision of scale of pay to the petitioner has been complied with as scale of pay of Rs.15600 – 39100 + G.P.5400. Now the petitioner is seeking for the payment of scale of pay in the promotional post. Since the issue is pending, the same has to be decided in the main writ petition and hence, prays this Court to discharge the respondents from contempt notice.

8. Heard Mr.M.Mahamani, learned counsel for the petitioner, Mr.C.S.Vaidyanathan, learned Senior Advocate for the first respondent and Mr.J.Ravindran, learned Additional Advocate General for the respondents 2 and 3.



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9. Mr.M.Mahamani, learned counsel appearing for the petitioner submitted that the stay order is in force and the act of non-admission of salary bill and return of the same by the respondents with an intention is a clear case of Contempt of Court.

10. Admittedly, the petitioner is seeking for a scale of pay in the promotion post and the petitioner has not filed an application to amend the prayer in the writ petition. Further, the first respondent has specifically replied in the reply affidavit that necessary reply on the pre-contempt notice has been sent to the counsel for the petitioner, vide, Government Lr.No.36432/CMPC/2022-1, dated 19/11/2022 and despite the same, Contempt Petition has been filed.

11. Accepting the explanations in the reply statement filed by the first respondent, we are satisfied that the respondents have not violated the order passed by this Court. Since no contempt is made out, this Court is of the considered view to close the Contempt Petition.

12. Accordingly, this Contempt Petition is closed.



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13. At this stage, both the parties have requested for early disposal of the writ petition. Considering the above, the learned Single Judge is requested to dispose of the writ petition, within a period of three months, from the date of receipt of a copy of this order. Parties are at liberty to raise all the points before the learned Single Judge.

(D.K.K.,J) (K.G.T.,J)
3rd April, 2023

mvs.

Inde: Yes/No

Neutral Citation: Yes/No



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