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Cont.P(MD)No.1031 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **01.08.2023**

CORAM:

THE HONOURABLE MR.JUSTICE **BATTU DEVANAND**

Cont.P.(MD)No.1031 of 2021
in W.P.(MD)No.1689 of 2019

A.Manoharan ... Petitioner/1st Respondent
Vs.

1.M.Sivakumar
The Chief Educational Officer,
O/o the Chief Educational Officer,
Thanjavur, Thanjavur District.

2.Mr.D.Jaisankar
The Principal Accountant General (A & E),
O/o the Principal Accountant General (A & E),
361, Anna Salai,
Chennai – 600 018. ... Contemnors/Respondents 4 & 5

(R1's name is substituted Vide Court order dated 28.10.2022 in
Cont.P(MD)No.1031 of 2021 by GRSJ)

PRAYER: Petition filed under Section 11 of the Contempt of Courts
Act, to punish the contemnors/respondents for their willful, deliberate
disobedience of the order of this Court made in W.P.(MD)No.1659 of
2019, dated 27.11.2019.

For Petitioner : Mr.G.Karthick
for Mr.S.Rajasekar

For R1 : Mr.R.Baskaran
Senior Counsel
Assisted by Mr.Nirmal Kumar

For R2 : Mr.P.Gunasekaran



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ORDER

This Contempt Petition has been filed complaining willful disobedience of the respondents in implementing the order dated 27.11.2019 in W.P(MD)No.1659 of 2019 in true letter and spirit.

2. While allowing the Writ Petition by order dated 27.11.2019, this Court passed the following order, as extracted herein under:

6. When a relief is granted to an employee with regard to counting 50% of service rendered by them as part time employee, the same cannot be restricted only to the persons filed writ petition or the persons filed the writ petitions on or before 6.4.2018. The said condition imposed by the impugned Government Order, is arbitrary and there is no reason given by the Government for fixing such cut-off date. In view of the same, the said condition is invalid and is liable to be set aside. For the above reason, the condition imposed is quashed. The respondents are directed to consider the representation of the petitioners for counting 50% of the service rendered by them as part time vocational instructors taking into account the various



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orders passed in the writ petitions and judgment of this Court, dated 21.04.2017, made in W.A.(MD)No.392 of 2017 etc., batch.

3. A Counter affidavit has been filed on behalf of the respondents on 14.07.2023 and an additional affidavit has been filed on 31.07.2023. On a perusal of the proceeding sheet, it appears that on 24.02.2023 when the Contempt Petition was taken up for hearing, the learned Additional Advocate General submitted that initial order was passed by the Chief Educational Officer, however, that order will be complied with on or before 03.03.2023. Accordingly, this Court directed that in failure of complying the order passed by this Court, the respondents shall appear before this Court on 03.03.2023.

4. On a careful perusal of the proceedings sheet, it appears that the Contempt Petition disappeared from listing and the same is not listed on 03.03.2023. There is no appearance of the respondents before the Court on that date and no attempt was made by the respondents'



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counsel to file any dispense with petition to condone the absence of the first respondent as the order is not complied with by 03.03.2023. It also appears that the petitioner's counsel failed to bring to the notice of the Court about non-listing of the Contempt Petition on 03.03.2023. This case is a best example to demonstrate how the counsels appearing on both sides are dealing with the contempt proceedings.

5. On 17.07.2023, when the case is listed, this Court was of the *prima facie* opinion that the first respondent failed to comply with the order in true letter and spirit and accordingly, directed the Registry to issue Statutory Notice to the first respondent.

6. Considering the submissions of the learned counsel for the 2nd respondent that the 2nd respondent received the proposal from the first respondent only on 04.07.2023 and immediately on 10.07.2023, the second respondent has complied with the order, this Court is of the opinion that there is no contempt on the part of the second respondent and accordingly, this Contempt Petition is dismissed as against the



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second respondent by order dated 17.07.2023.

7. In compliance of the Statutory Notice, the first respondent is present before this Court.

8. The learned Senior Counsel appearing for the first respondent submits that on 24.02.2023, the first respondent personally appeared before the Court and submitted that the order is complied with by issuing proceedings in R.C.No.1558/A4/2019 dated 21.02.2023, but the Court opined that to issue such proceedings, the State Government is the competent authority and accordingly, the respondents sought time till 03.03.2023 for compliance of the order. The Government issued G.O.(2D) No.25, School Education department (SED 7(1)) dated 01.03.2023 had been issued for inclusion of 50% of period of service as part-time Teacher of the petitioner.

9. During the course of hearing, the learned Senior Counsel appearing for the respondents submitted as on the dates, on which the



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School Management sent proposal to the Education Department, the same was forwarded to the Principal Accountant General's Office, returning the same by the Principal Accountant General to the Education Department and transmitting the same to the School Management.

10. On considering the submissions of the learned Senior Counsel, admittedly, there is lapse on the part of the school management and the Education Department in sending the proper proposals to the second respondent. The Education Department treating the pension proposals in very lighter way and they are under the impression that they are doing Post Office work but only after objections raised by the Accountant General's Office only they are again asking revised proposals from the school management. In the present case, the Principal Accountant Gener's office returned the proposals forwarded by the Education Department for 3 times. In the entire episode, the ultimate sufferer is the petitioner, who is a retired teacher and he is suffering for all these period without any pension.



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11. The learned Senior Counsel however would submit that as of now, the order of the court is complied with in toto and the revised pension is paid to the petitioner on 10.07.2023.

12. The learned counsel for the petitioner also accepted the receipt of payment of the revised pension on 10.07.2023.

13. Having heard the submissions of the respective counsels and upon careful perusal of the materials available on record, admittedly there is a huge delay in complying with the order of the Court. When this Court asked the learned Senior Counsel about the delay occurred in implementing the order, he would submit that the first respondent is tendering his unconditional apology for the delay caused in true implementation of the order of the court. Though this Court is not satisfied with the conduct of the first respondent in the way he failed to implement the order of the Court within the reasonable time, considering the fact and circumstances of the case and considering the request of the learned Senior Counsel appearing on behalf of the first respondent, this



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Court is of the considered view to accept the unconditional apology tendered by the first respondent with a warning to be more careful in future in implementing the orders of the court.

14. In view of the same, the unconditional apology tendered by the first respondent is accepted.

15. For the above mentioned reasons, this Contempt Petition is closed with a caution to the first respondent to be more vigilant and careful in implementing the orders of the Court in future.

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Index : Yes/No
Internet : Yes/No
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To,

1.M.Sivakumar
The Chief Educational Officer,
O/o the Chief Educational Officer,
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BATTU DEVANAND, J.,

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