



Cont.P.(MD) No.1005 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CONT.P.(MD)No.1005 of 2022

in

Cont.P.(MD)No.53 of 2019

P.Rajendran

... Petitioner / Petitioner

Vs.

1.Ravindran

General Manager,

Tamil Nadu State Transport Corporation

Kumbakonam Limited,

Karaikudi Division,

Matuthupathi,

Karaikudi,

Sivagangai District.

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2.Bama,

The Administrator,

Tamil Nadu State Transport Corporation

Pension Fund Trust,

Tiruvalluvar Illam,

Pallavan Salai,

Chennai - 600 002.

... Contemnors / Respondents

PRAYER : Contempt Petition filed under Section 11 of the Contempt of Courts Act, to punish the contemnors/respondents for their willful disobedience on the order passed by this Court in Cont.P.(MD)No.53 of 2019, dated 19.08.2021.

For Petitioner : Mr.Haja Mohideen

For Respondents : Mr.K.Jegadeesbalan - for R1

Mr.S.C.Herold Singh - for R2



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ORDER

[Order of the Court was made by R.SURESHKUMAR, J.]

This contempt petition has been filed for the alleged disobedience of the orders passed in yet another contempt petition i.e., Cont.P.(MD)No.53 of 2019 dated 19.03.2021.

2. The genesis of this contempt petition is that the petitioner was an erstwhile employer of the respondent Transport Corporation who filed a Writ Petition in W.P(MD)No.19516 of 2014 seeking for the terminal benefits. The said Writ petition was allowed by the Writ Court by one of us (*R.SURESHKUMAR, J.*), by order, dated 10.01.2017, under which, the respondent Transport Corporation was directed to pay the terminal benefits in 12 equal monthly installments which carries the interest of 6% p.a. from the date of due, till the date of appointment.

3. However, subsequently, the respondent Transport Corporation filed a review application in Rev.Aplc.(MD)No.9 of 2017 which also came to be disposed of, by one of us (*R.SURESHKUMAR, J.*),

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by order, dated 02.03.2017, under which there was a modification of the order of the Writ Court under which a sum of Rs.3,40,425/- (Rupees Three Lakhs Forty Thousand Four Hundred and Twenty Five only) was due and payable by the employee towards the employer that can be adjusted and insofar as the remaining amount payable to employee, is concerned the order passed by the Writ Court shall remain unaltered.

4. Aggrieved over the said modified order passed by this Court, the employee preferred intra Court appeal in W.A.(MD)No.518 of 2017 which was disposed of by a Division Bench of this Court, dated 14.09.2017, where a further modification has been made and accordingly, the respondent Transport Corporation was permitted to adjust only a sum of Rs.81,967/- (Rupees Eighty One Thousand Nine Hundred and Sixty Seven only).

5. Therefore, the resultant situation was that the employee would be entitled to get back his retiral benefits by deducting a sum of Rs.81,967/- (Rupees Eighty One Thousand Nine Hundred and Sixty Seven only) alone.



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6. Only in that circumstances, earlier Contempt Petition i.e., Cont.P.(MD)No.53 of 2019 was filed, as if the orders passed by the Writ Court confirmed by the Division Bench, has not been complied with by the respondent Transport Corporation. While disposing of the said contempt petition, another Division Bench has observed that whatever amount payable to the petitioner shall be calculated and paid within a period of four weeks from the date of receipt of a copy of the order, that means, the copy of the order passed on 19.08.2021 in the said contempt petition and the interest also has been made as 9% p.a.

7. Only now, the present contempt petition has been filed as if the said order passed on 19.08.2021 by the Division Bench in the contempt petition referred to above, has not been complied with.

8. In this context, Mr.Haja Mohideen, learned counsel for the petitioner admittedly would submit that after deducting Rs.81,967/- (Rupees Eighty One Thousand Nine Hundred and Sixty Seven only) as per the modified order passed by the Division Bench, the remaining amount though



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had been paid, the said amount calculated and paid by the respondent Transport Corporation, is not in consonance with the actual full length of service of the employee which runs to 29 years. Had it been calculated for the full length of service, the calculation would have been a different one and more amount becomes due and payable to the employee since that has not been properly calculated and paid, the respondent can be construed as a contemnor and accordingly, action shall be taken, he contended.

9. However, Mr.S.C.Herold Singh, learned counsel appearing for the respondent Transport Corporation would submit that, whatever the amount due and payable to the employee shall be disbursed within 12 instalments, where what is to be adjusted towards the payment by the employee to the employer also, since it has been indicated in the modified order passed by the Division Bench, based on which, calculation had been made and remaining amount had been paid back to the employee and therefore, according to the respondent Corporation, absolutely there has been no further amount due and payable to the employee. Hence, he submitted that there has been no contempt.



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

11. The modified order of the Division Bench which has been reiterated in the subsequent order of the another Division Bench in contempt petition dated 19.08.2021 is to the effect that, after deducting the Rs.81,967/- (Rupees Eighty One Thousand Nine Hundred and Sixty Seven only) payable by the employee to the employer, the remaining amount should be paid. That has been, according to the respondent, paid and the petitioner also submitted that according to their calculation, that has been paid and he has received. Therefore, what is the calculation based on which that amount was arrived at and paid, cannot be gone into at this stage in the contempt petition as there has been no wilful disobedience on the part of the respondent as only in that case, Contempt Petition normally would be entertained.



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12. Recording the same, this Contempt Petition is closed.

While closing the contempt petition we give liberty to the petitioner to agitate the issue with regard to the method of calculation to arrive at a figure i.e., the retirement benefits payable to the employee as a faulty or flawed one, i.e., a separate cause of action to be agitated in the manner known to law.

13. With that liberty, this contempt petition is closed.

[R.S.K., J.] & [B.P., J.]
23.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
RM



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To
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Tamil Nadu State Transport Corporation
Kumbakonam Limited,
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- 2.The Administrator,
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