



Cont.P.(MD)No.1501 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 03.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Cont.P.(MD)No.1501 of 2022

G.Ilangovan

... Petitioner

versus

Mr.K.Manivasan, I.A.S.,
The Principal Secretary to Government,
Public Works Department,
Fort St. George,
Chennai – 600 009.

... Respondent

Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971 to punish the respondents/contemnors for willful disobedience to the orders of this Court dated 04.02.2022 in W.P. (MD)No.2325 of 2022 and punish respondents for contempt.

For Petitioner : Mr.VR.Shanmuganathan

For Respondent : Mr.J.Ravindran,
Additional Advocate General
assisted by
Mr.S.Saji Bino,
Special Government Pleader



Cont.P.(MD)No.1501 of 2022

WEB COPY

ORDER

This Contempt Petition has been filed alleging that the order of this Court dated 04.02.2022 passed in W.P.(MD)No.2325 of 2022 has not been complied with.

2. This Court, in W.P.(MD)No.2325 of 2022, by order dated 04.02.2022, has passed the following order:

“5. In view of the rival submissions made, this Court is inclined to dispose of the Writ Petition at the admission stage itself with a direction to the first respondent to take a decision on the proposal made by the fourth respondent on the regularization of the petitioner's services in the light of the Government Orders in G.O.(Ms).No.385, Education Department, dated 04.04.1989, G.O.(Ms).No.334, Public Works (C2) Department, dated 19.10.2007 and G.O.(Ms).No.134, Public Work (C2) Department, dated 07.05.2010, on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.



6. With the above direction, this Writ Petition is disposed of. However, there shall be no order as to costs.”

3. In compliance of the above order, the respondent/Contemnor, by his letter No.3659/C2/2022-4 Public Works Department, dated 12.12.2022 has sent a communication to the petitioner that he cannot be regularized in the following reasons:

(i) During the period, while G.O.(Ms) No.334, Public Works (C2) Department, dated 19.10.2007 and G.O.(Ms)No.134, Public Works (C2) Department, dated 07.05.2010, were issued by the Government, the individual was not working in Public Works Department, he was under the administrative control of Higher Education Department.

(ii) The individual was not engaged through Employment Exchange and he has not been engaged in a sanctioned post and engaged only in a casual manner as and when the project/work need arose, he is not eligible for regularization of service as per rule 2 (method of appointment) under Branch -XII of Part – II of Special



WEB COPY



Cont.P.(MD)No.1501 of 2022

Rules for the Tamil Nadu Engineering Subordinate Services.

(iii) In G.O.(Ms)No.22, Personnel and Administrative Reforms Department, dated 28.02.2006, the following conditions have been issued with regard to regularization:

“ xxxxxx

(ii) The services of the full time daily wage employees who were initially appointed on full time basis in consultation with the Employment Exchange to discharge the function of the post in the Tamil Nadu Basic Service and completed 10 (ten) years of service as on 01.01.2006 shall be regularized against regular vacancies in the sanctioned cadre strength.

(iii) In cases of relaxation of service rules, the service rule relating to the educational qualification and mode of recruitment shall not be relaxed.”

(iv) In G.O.(Ms)No.131, Personnel and Administrative Reforms Department, dated 28.11.2020, the following orders have been issued:-



WEB COPY



Cont.P.(MD)No.1501 of 2022

“xxxx xxxx xxxx

4. *There should be no further bypassing of the Constitutional requirement, regularizing or making permanent, those not duly appointed, as per the Constitutional scheme.*

5. *In view of the above, it is hereby reiterated that in case of posts governed by Rules, in all the services, including Tamil Nadu Basic Service, appointment shall be made only with reference to the existing rules. While selecting candidates for appointment, the claim of the contesting candidates shall be weighed with reference to the rules, in force, as emphasized in the “Umadevi Case” [State of Karnataka vs. Umadevi (2006) 4 SCC 1].*

6. *All the appointing authorities should adhere to the above instructions scrupulously, failing which, it will be viewed seriously and necessary disciplinary action will be initiated as per rules, against the person responsible for the said lapses. All Heads of Departments are directed to ensure that the above said*



Cont.P.(MD)No.1501 of 2022

instructions are followed, without fail.”

Aggrieved over that, the present Contempt Petition is filed.

4. The learned counsel appearing for the petitioner has referred to other orders passed by the very same Department and contended that the persons, who have been appointed along with the petitioner, have been regularized, however, the petitioner has been singled out and they are now denying to regularize the petitioner even after the order of this Court. This Court has passed the order dated 04.02.2022 considering the proposal made by the 3rd respondent therein, on the representation of the petitioner and directed the 1st respondent/Contemnor to take a decision in the light of the Government Orders in G.O.(Ms).No.385, Education Department, dated 04.04.1989, G.O.(Ms)No.334, Public Works Department (C2) Department, dated 19.10.2007, G.O.(Ms).No. 134, Public Works (C2) Department dated 07.05.2010. By the above G.Os. around 2000 persons, who have been similarly employed as that of the petitioner, have been regularized.



Cont.P.(MD)No.1501 of 2022

WEB COPY 5. The grievance of the petitioner is that the persons, who have been employed along with him, have been regularized.

6. When this Court has raised a query to the learned Additional Advocate General appearing for the respondent/Contemnor, the learned Additional Advocate General submits that those persons are differently placed persons and they have been employed through employment exchange.

7. The learned counsel appearing for the petitioner insisted this Court that the said statement has to be recorded and also insisted for an affidavit to be filed to that effect.

8. Considering the scope of the Contempt Petition, this Court is not inclined to entertain this contempt petition, for the reason that the writ petition was disposed of at the admission stage itself without



Cont.P.(MD)No.1501 of 2022

providing an opportunity to the respondent. Since the order has been passed without providing an opportunity to the respondent at the admission stage itself, this Court is not inclined to enlarge the scope of the contempt petition. Therefore, this Contempt Petition is closed with liberty to the petitioner to challenge the letter No.3659/C2/2022-4 Public Works Department, dated 12.12.2022, in the manner known to law.

03.11.2023

ogy

NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

Mr.K.Manivasan, I.A.S.,
The Principal Secretary to Government,
Public Works Department,
Fort St. George,
Chennai – 600 009.



WEB COPY



Cont.P.(MD)No.1501 of 2022

B.PUGALENDHI, J.

ogy

Cont.P.(MD)No.1501 of 2022

03.11.2023