



CONT.P(MD)No.1652 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

CONT.P(MD)No.1652 of 2022

in

W.P(MD)No.10627 of 2007

C.A. Shanmukhavel

...Petitioner

Vs.

S. Krishnan I.A.S.,
The Secretary to Government,
Industries Department,
Fort St. George,
Chennai – 600 008.

....Respondent

Prayer: Contempt Petition is filed under Section 11 of the Contempt of Courts Act, 1971, to punish the respondent herein for his willful and wanton disobedience of the orders dated 06.02.2014 passed in W.P. (MD) No.10627 of 2007.



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For Petitioner : Mr.C.Jeganathan

For Respondent : Mr. P.Thilak Kumar

ORDER

This Contempt Petition has been filed complaining the willful disobedience of the order dated 06.02.2014 passed in W.P. (MD) No.10627 of 2007 in true letter and spirit.

2. A counter affidavit has been filed on behalf of the respondent.

3. While allowing the said Writ Petition, this Court held at paragraph Nos.10 & 11 as extracted herein under :

“10.The charge memos impugned in the present case are liable to be quashed not only on the ground as above referred to, but also on the ground that the same are lacking in



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fairness and are biased and vindictive in nature. For all the reasons stated above, the impugned charge memos stand quashed.

11. In the result, the writ petition is allowed by setting the impugned orders and by directing the respondents to allow the petitioner to retire from service on 31.01.2006 as if no charge is pending against him and give all monetary and attendant benefits. No costs.”

4. After receipt of the order of this Court, the respondent without complying the order, after five years filed Writ Appeal before the Division Bench of the Court and the same was dismissed at the SR stage by the Division Bench of the Court on 27.07.2022. Even after dismissal of the Writ Appeal also, the respondent did not choose to implement the order. Under those circumstances, this Court issued statutory notice on 05.07.2023 directing the respondent to appear in person before this Court on 04.08.2023.



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5. On 02.08.2023, the respondent filed compliance affidavit, wherein, it is stated that the order of the Court is fully complied with by settling the pensionary benefits to the petitioner stage by stage from 03.03.2023 to 12.07.2023.

6. On perusal of the same, it is proved that only after issuance of the statutory notice, dated 05.07.2023, the respondent has complied with the order of the Court on 12.07.2023. Admittedly, there is a delay of 9 years in complying the order of this Court, dated 06.02.2014. In the considered opinion of this Court, the reasons stated in the counter affidavit of the respondent for the delay are not acceptable.

7. The Officers of the Government should exercise utmost vigilance in compliance of the Court orders, particularly where they deal with vital issues of retired employees and their pensionary



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benefits which is very much essential for their survival otherwise their right to live guaranteed under Article 21 of the Constitution of India will be affected. If, the Constitutional Courts failed to deal with the contempt petitions in a proper manner and effective to uphold the majesty of Courts, the Courts would loose the confidence of the litigant public.

8. Once, an order is passed by a competent Court, it has to be complied in true letter and spirit. Those Officers, who are not implementing the orders of the Court in true letter and spirit, shall keep in mind that if they are convicted under the provisions of the Contempt of Courts Act, it would damage their service career. The Officers of the State Government and Central Government being the public servants, they are not permitted to take the Court proceedings as take it for granted. They have to comply the order of the Court within the time stipulated by the Court. Complying the order after filing Contempt Petition or after issuing statutory notice seeking for



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their personal appearance should not be considered as implementation of the Court order in true letter and spirit.

9. The judgment of the Hon'ble Apex Court in ***Commissioner, Karnataka Housing Board Vs. C.Muddaiah*** reported in ***(2007) 7 SCC 689*** is very apt to the present situation, which is extracted herein under:

“31. We are of the considered opinion that once a direction is issued by a competent court, it has to be obeyed and implemented without any reservation. If an order passed by a court of law is not complied with or is ignored, there will be an end of the rule of law. If a party against whom such order is made has grievance, the only remedy available to him is to challenge the order by taking appropriate proceedings known to law. But it cannot be made ineffective by not complying with the directions on a specious plea that no such directions could have been



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issued by the court. In our judgment, upholding of such argument would result in chaos and confusion and would seriously affect and impair administration of justice. The argument of the Board, therefore, has no force and must be rejected.”

10. In view of the above, this is a fit case to invoke provisions of Contempt of Courts Act, to punish the concerned, who are responsible for non-implementation of the order of this Court dated 06.02.2014 for 9 years. But unfortunately, the petitioner failed to implead all concerned Officers who are responsible for non-implementation of the Court order from the year 2014 to 12.07.2023. Admittedly, the Officer, who is impleaded as respondent in this Contempt Case, joined in the post in the year 2021 only.

11. On perusal of his affidavit, this Court satisfied that after assuming charge as Secretary of the Industry Department, the respondent has taken steps to comply the order of the Court. Under



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these circumstances, fixing the entire liability only on the respondent for the delay occurred in implementing the order of the Court from 2014 is not justifiable.

12. Considering all these aspects and in view of the fact that the order of the Court is complied with as of now, in our considered view it is appropriate to close the contempt case.

13. Accordingly, this Contempt Petition is closed.

14. At this juncture, the learned counsel for the petitioner contends that the petitioner is entitled for interest for 17 years for the delay occurred in settling the pensionary benefits. He also submits that the petitioner has submitted several representations to the respondent seeking interest for the delayed payment of the pensionary benefits.



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15. This Court is very conscious that as per the settled law pension and other terminal benefits are the property of the retired employees. The Hon'ble Apex Court in *Dr.Uma Agarwal Vs. State of U.P. and Another* reported in **1999 3 SCC 438** held that “Pension is not a bounty, but right of a retired employee”. As and when abnormal delay occurred in settling the pensionary benefits, retired employees are entitled for the interest. But in the Contempt Petition, this Court is not inclined to pass such order.

16. It is always left open to the petitioner to avail his legal remedies for claiming interest for the belated settlement of retirement benefits.

20.11.2023

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

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BATTU DEVANAND, J.

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