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W.P.No.1077 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

W.P.No.1077 of 2024

and

W.M.P.No.1137 of 2024

- 1.Dr.Hasmukh Adhia
The Union of India,
Secretary to Government,
Ministry of Finance,
Department of Revenue Central of Excise and Customs,
North Block, New Delhi.
- 2.Mr.C.P.Rao
The Chief Commissioner of Central Excise,
Central Excise Zone, Nungambakkam,
Chennai – 600 034.
- 3.Dr.Vasa Seshagiri Rao
The Commissioner of National Academy of Customs,
Excise and Narcotics,
Regional Training Institute,
3rd Floor, Ambattur,
Chennai – 600 058.
- 4.Shri.R.Sarvana Kumar
The Commissioner of Central Excise,



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Rathinamasamy Road, B.P.Kulam,
Madurai – 2.

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5.Mr.Ashok

The Commissioner of Customs,
No.1, Williams Road,
Cantonment, Trichy.

... Petitioners

Vs.

1.The Deputy Registrar,
Central Administrative Tribunal Chennai Branch,
2nd Floor, City Civil Court Building,
Chennai – 600 104.

2.Thiruvenkadesu

3.K.Shanmugam

4.S.Murugesan

5.S.Krishanammal

6.K.Arumugam

7.M.Elango

8.S.Ravi

9.B.Ramasamy

10.K.Santhanam

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, call for the records of the first respondent in C.A.310/00086/2018 in O.A./1270/2017 dated 30.11.2023,



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quash the same as illegal.

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For Petitioners	: Mr.V.Chandrasekaran Senior Panel Counsel
For R1	: Tribunal
For R2 to R9	: Given Up
For R10	: Mr.R.Jaikumar For M/s.T.Fenn Walter Associates

ORDER

[Order of the Court is made by **S.M.SUBRAMANIAM, J.**]

The *lis* on hand has been instituted questioning the validity of the order dated 30.11.2023 passed in CA.No.310/00086/2018 in O.A.No.1270 of 2017.

2. The Union of India is the petitioner before this Court. In nutshell, the respondents filed O.A.No.1270 of 2017 before the Central Administrative Tribunal seeking a direction to the respondents therein to regularise the services of the applicants in Group D posts on par with their colleagues with all attended and consequential benefits in accordance with the judgment in



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O.A.No.758 and 777 of 2004 and other cases by extending their benefits thereof. The Tribunal disposed of the original application with the following directions:

“5. Considering the limited submission of the learned counsel for the applicants, I deem it appropriate and direct the applicant to submit a detailed representation within a period of one week from the date of receipt of a copy of this order and the respondents shall consider the representation of the applicants by passing a reasoned and speaking order in the light of the judgments delivered by this Tribunal in O.A.No.777/2024, 1590/2011, O.A.No.959/2013 and confirmed by the Hon'ble High Court in W.P.No.29298 of 2013 in accordance with law within a period of four weeks thereafter.

6. Shri V.Chandrasekhar (R-1) and Dr.S.Seethalakshmi (R2-5) take notice for the respondents.

7. The OA is disposed of as above at the admission stage.”

3. Pursuant to the directions of the Central Administrative Tribunal respondents submitted a representation seeking regularisation of their respective services. The appellants considered the same and passed an order



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granting regularisation to all the respondents except one Mr.K.Santhanam found ineligible for grant of said service benefit. Admittedly, compliance affidavit was filed in Contempt Petition No.86 of 2018 by the appellants. In the said compliance affidavit following details are provided:

CP Sl.No.	Name of the Applicant	Status	Order No. & Date
1	G.Thiruvankadesu	Regularised as Havaldar	Order No.92/2020 dated 30.12.2020 in File C.No.II/39/223/2019- CCA.Estt
2	K.Shanmugam		
3	S.Murugesan	Regularised as MTS	GCCO III/39/55/2022- CCAESTT dated 20.06.2023
4	S.Krishnammal		
5	K.Arumugam		
6	M.Elango	Regularised as Havaldar	Order No.13/2020 dated 10.02.2020 in File C.No.II/39/280/2019- CCA.Estt-PF-1
7	B.Ramasamy		
8	S.Ravi	Regularised as Havaldar	GCCO/II/39/OTH/24/2022- CCAESTT dated 20.06.2023
9	K.Santhanam	Not Regularised	It is informed by DoPT in the OM No.49014/2/2024- Estt(c) dated 26.02.2016 that, Casual labourers who were granted temporary status after 29.04.2002, are not deemed to be covered under the Scheme of 1993. Since Shri.K.Santhanam was granted temporary status on 01.09.2002 (after



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CP Sl.No.	Name of the Applicant	Status	Order No. & Date
			29.04.2002), he is not covered under the Scheme of 1993. Also, he is not covered under the “Part-Time Casual Labourers Regulations Scheme of CBIC 2020”.

4. As far as Mr.K.Santhanam is concerned his services were not regularised on the ground that he was granted temporary status on 01.09.2002 (after 29.04.2002), he is not covered under the Scheme of 1993. Also he is not covered under the “Part-Time Casual Labourers Regularisation Scheme of CBIC 2020”.

5. After the petitioners filed a compliance affidavit, the Central Administrative Tribunal passed an impugned order on November 30, 2023, in the contempt application. The order states that “while regularizing the services of applicants 1 to 8 in the original application, denying the same benefits to the 9th applicant, Mr. K. Santhanam, was improper”.

6. Accordingly, the Tribunal directed the 2nd respondent, the Chief



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Commissioner of Central Excise, Central Excise Zone, Nungambakkam, Chennai, to appear before the Central Administrative Tribunal on January 4, 2024. The respondent was required to file a short affidavit explaining why contempt action should not be initiated against respondents 2 to 5 for their wilful disobedience and non-compliance with the order dated August 4, 2017, fully in its letters and true spirit.

7. The learned Senior Panel Counsel appearing on behalf of the appellants would mainly contended that contempt petition *per se* is not entertainable, in view of the fact that appellants have complied with the orders of the Tribunal by passing speaking orders. The case of the respondents were considered with reference to their service records as directed by the Tribunal in the final order passed in the original application. Consequently, applicants 1 to 7 in the original application were granted the benefit of regularisation. However, the 9th applicant Mr.K.Santhanam, was found ineligible for the benefit of regularisation. Therefore, his case alone was rejected. This fact was duly stated in the compliance report. Therefore, the contempt petition exceeds the scope of the order passed in the original application.



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8. The learned counsel for the respondents would oppose by stating that the Tribunal found the order passed in the O.A.No.1270 of 2017 was not implemented in its letter and spirit. When the benefit of regularisation was extended to the applicants 1 to 8, it was unjust to exclude the 9th applicant, Mr.K.Santhanam, from the same benefit. The 9th applicant in Original application Mr.K.Santhanam is also eligible for the same benefits. Therefore, the contempt petitions filed by the petitioners were taken on file, and personal appearance was ordered. Thus, the writ petition is to be rejected.

9. Questions arise,

- (1) Whether the appellants/authorities herein have implemented the orders of the Tribunal passed in O.A.No.1270 of 2017 dated August 4, 2017?
- (2) Whether the appellants/authorities have committed any contempt of the order passed by the Tribunal?

10. In order to consider the above issues, it is necessary to consider the scope of the final order passed by the Central Administrative Tribunal in



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O.A.No.1270 of 2017.

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11. Paragraph 5 of the order in original application reveals that the limited submission made by the learned counsel for the applicants before the Tribunal was taken into consideration. Thus, it is clear that the relative merits and issues were not adjudicated elaborately by the Central Administrative Tribunal in the Original application. Since the eligibility of the employees for regularization and permanent absorption were not adjudicated on merits, the Tribunal's direction to consider the representation does not provide a valid cause for securing the benefit of regularization positively from the hands of the appellants/authorities.

12. The direction in the original application further proceeds by stating that the applicants in the original application were directed to submit detailed representation within a period of one week from the date of receipt of a copy of the order. The respondents were then required to consider the representation by passing a reasoned and speaking order, in the light of the judgments delivered by the Tribunal in O.A.No.777 of 2004, etc. Thus, the Tribunal did not decide the issues on merits. Instead, the Tribunal directed



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the applicants therein to submit a representation and directed the respondents to consider the same on merits.

13. Thus, the appellants are empowered to adjudicate and consider the relative merits with reference to the service records of the respondents and take an independent decision, and pass a speaking order. It is not in dispute that such an exercise had already been done by the appellants and a compliance report was filed. Non-consideration of one applicant's case in his favour for grant of relief does not contravene the directions issued by the Tribunal in order dated 04th August, 2017 in O.A.No.1270 of 2017.

14. When the Tribunal directed the respondents to consider the representation, and if such representations were considered and passed final orders, there ends the matter. Consequently, no contempt of Court would arise, even if the competent authorities rejected the representation submitted by the respondents.

15. In the absence of the adjudication on merits by the Courts, mere direction to consider the representation, followed by consideration and the



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passing of an order, does not provide any ground for initiating contempt proceedings.

16. This Court is of the considered opinion that even while issuing a direction to consider a representation, Courts are expected to ensure that the right of the applicant's are crystallised. A blanket direction to consider the representation would do no service to the cause of justice. On the contrary, it would lead to further litigations, resulting in multiplicity of proceedings instead of redressing the grievances of the litigants.

17. Therefore, Courts, while issuing a direction to consider a representation, may take into consideration, whether the person is entitled to such direction and whether his/her rights are established. In the absence of any right, no application is entertainable.

18. The duty of the appellants/Executive Authority is discharged soon after taking a final decision and by passing a speaking order in compliance with the directions issued by the Central Administrative Tribunal to consider the representation of the respondents. Therefore, initiation of contempt



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proceedings by the respondent *per se* is not maintainable and falls beyond the scope of the provisions of the Contempt of Courts Act, 1971. Further, the appellants have not committed any wilful disobedience of the orders of the Tribunal passed in original application.

19. Consequently, we are inclined to interfere. The order dated 30.11.2023 passed in CA.No.310/00086/2018 in O.A.No.1270 of 2017 is hereby set aside and the Writ Petition stands allowed. The connected Miscellaneous petition is closed. There shall be no order as to costs.

[S.M.S., J.] [M.J.R., J.]
22.11.2024

Index : Yes
Speaking order / Non-speaking order
Neutral Citation : Yes

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To

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The Deputy Registrar,
Central Administrative Tribunal,
Chennai Branch,
2nd Floor, City Civil Court Building,
Chennai – 600 104.



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S.M.SUBRAMANIAM, J.
AND
M.JOTHIRAMAN, J.

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