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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 28.06.2024

PRONOUNCED ON : 11 .07.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

Cont.P.No. 800 of 2024

U.Balasubramanian

... Petitioner/Petitioner

Vs

Tmt.J.Akila

The Managing Director

The Tamil Nadu Industrial Co-operative Bank Ltd.,

Raja Annamalaipuram, Chennai – 600 028.

Now the post has been re-designated as

The Deputy Director

Industries and Commerce

(Industrial Cooperatives) / Administrator

TAICO Bank, Chennai – 28.

...Respondent/Respondent

PRAYER: Contempt Petition filed under Section 11 of the Contempt of Court Act, to punish the respondent herein for having committed contempt of the orders passed by this Hon'ble High Court in W.P.No. 27741 of 2018 dated 22.09.2023 for not implementing the order.

For Petitioner : Mr. R.S. Anandan

For Respondent : Mr.Haja Nazirudeen (AAG-I)
Assisted by Mr. A.M.Ayyadurai (GA)
Crl. Side



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ORDER

This Contempt Petition has been filed seeking to punish the respondent/Managing Director, the Tamil Nadu Industrial Co-operative Bank Ltd., Chennai, for having committed contempt of the orders passed by this Court in W.P.No. 27741 of 2018 dated 22.09.2023 and in not implementing the said order.

2. The petitioner had filed W.P.No. 27741 of 2018 in the nature of certiorarified Mandamus seeking to quash the order of the respondent/Managing Director, Tamil Nadu Industrial Co-operative Bank Ltd., Chennai, in proceedings dated 27.10.2017 and the consequential order dated 31.10.2017 and to direct the respondent to permit him to retire from service with retrospective effect from 31.10.2017 and to regularise the period of suspension as duty for all purposes and confer all retirement benefits.

3. By order dated 22.09.2023, this Court had held as follows in paras 4 & 5:-



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“4. On behalf of the respondent, the learned counsel stated that as against the petitioner and three other staff members, surcharge proceedings had also been initiated and three other staff members had paid the amounts determined. It is complained that the petitioner however filed an appeal and it is admitted that as against the order, the appellate authority had set aside the surcharge proceedings order. Therefore, as on date, there is no impediment in the respondents for passing final orders pursuant to the report of the enquiry officer.

5. It is also contended by the learned counsel for the respondent that criminal case is also pending but again that should not be considered as a bar to pass final orders consequent to the report of the enquiry officer. The respondent is therefore directed to pass orders consequent to the report of the enquiry officer within a period of 8 weeks from the date of receipt of a copy of this order is received. No further time should be taken. If the time limit of 8 weeks is not adhered to, a further direction is given and it shall be deemed that the charges are



dropped.”

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4. It is contended by the learned counsel for the petitioner that the time limit of 8 weeks was not adhered to and therefore it should be deemed that the charges against the petitioner are dropped.

5. On the side of the respondents, however, a status report had been filed by the Administrator of the Tamil Nadu Industrial Co-operative Bank Ltd., on behalf of the Deputy Director / Joint Director, who had entered on maternity leave on 14.02.2024. It was stated that Tmt. J.Akila, Deputy Director (Industrial Cooperatives) was appointed as Administrator to the Tamil Nadu Industrial Co-operative Bank Ltd., for a period of six months with effect from 11.08.2023 or till the new Board assumes charge to manage the day to-day affairs of the Bank. In addition to the post of Deputy Director (Indl. Coops), she also held full additional charge of Joint Director (Cair) and she also assumed charge as Administrator of Tamil Nadu Industrial Co-operative Bank Ltd., on 11.08.2023. It had been further stated that due to changes in administration, the disciplinary authority / Administrator of TAICO Bank had to make a fresh study about this particular case and called for further explanation against the petitioner



explanation from the petitioner, detailed observation had to be made and final orders had to be passed within the stipulated period. It was further stated that due to unprecedented heavy rains from 03.12.2023 to 06.12.2023, the office at Mandavelipakkam, Chennai was flooded and the computers and materials were damaged. The staffs could not attend the office for more than a week. It was stated that however the computers were made ready and the entire file had been reconstructed and final orders were issued on 16.12.2023. The time frame of 8 weeks expired by 11.12.2023. It was stated that there was a delay of four days which was neither wilful nor wanton, but for the reasons stated. It was also stated that this was brought to the notice to the counsel for the petitioner while replying to the legal notice dated 29.12.2023. It was also stated that the order dated 22.09.2023 was received in the office of TAICO Bank on 16.10.2023 and it was therefore construed that the two months' period would expire on 16.12.2023. It was therefore stated that there was no wilful contempt committed.

6. Heard arguments advanced by Mr.R.S.Anandan, learned counsel for the petitioner and Mr. Haja Nzirudeen, learned Additional Advocate General, assisted by Mr. A.M.Ayyadurai, Government Advocate (Crl. Side), for the respondent.



WEB COPY 7. A perusal of the records show that along with the contempt petition, the certified copy of the order in W.P.No. 27741 of 2018 had been enclosed and it is seen that though the copy of the application was made on 22.09.2023, the copy was actually made ready on 09.10.2023 and delivered on 12.10.2023. It is thus seen that even for the petitioner, the Registry had made the copy ready only on 09.10.2023. The order in the Writ Petition was that compliance must be made within a period of 8 weeks from the date of receipt of a copy of the order dated 22.09.2023. This order was finally made ready on 09.10.2023 by the Registry even for the petitioner.

8. When viewed from that particular angle, the period of 8 weeks would expire only on or around 09.12.2023. In the status report, the respondent had stated that they had received the copy of the order on 16.10.2023. They had therefore presumed that the last date for passing of the order was on 16.12.2023. There has been a delay of four days even according to them.



9. The reasons advanced for the delay, had been examined by this Court and the same are plausible. When, owing to the rains, the office are flooded and there is no public transport and the computers are also damaged, it is only reasonable that there would be a small delay beyond the control of the respondent.

10. The learned counsel for the petitioner pointed out the nature of the order passed and stated that the respondent had been specifically vindictive against the petitioner and had exonerated the other officers and staff, and had passed final orders adverse only against the petitioner herein. But this Court can never enter into any discussion about the nature of the order passed. This Court cannot also give directions as to the nature of the order that should be passed. They are exclusively within the purview of the authority, who is competent in law to pass such orders. Therefore, the Court cannot express any opinion about the nature of the order passed. If there is an appellate remedy, the petitioner may very well take recourse to that appellate remedy. If owing to the filing of this contempt petition, the time period for filing the appeal had expired, then taking advantage of Section 14 of the Limitation Act, 1963, the period during which this contempt petition has been pending could be excluded.



WEB COPY 11. I hold that there has been no wilful contempt of the order passed by this Court. It is a fact that the respondent had passed orders with a delay of four days but the reasons advanced are acceptable.

12. The contention of the learned counsel for the petitioner that the order was passed by this in the presence of the learned counsel for the respondent, cannot be countenanced since it is the respondent who will have to pass orders and they can do so only on examining the nature of the order passed by this Court and therefore, some leverage would have to be given to them for that particular exercise.

13. In view of these facts, I hold that the Contempt has not been made out and accordingly, this Contempt Petition stands dismissed, however protecting the petitioner on the issue of limitation as stated above, in case, the petitioner seeks to file any appeal against the order passed by the respondent.

11.07.2024

vsg

Index: Yes/No

Speaking order / Non speaking order



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C.V.KARTHIKEYAN, J.

Vsg

Pre Delivery Order made in

Cont.P.No. 800 of 2024

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