



WEB COPY

Cont.P.No.973 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2024

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH  
and  
THE HONOURABLE MR.JUSTICE G. ARUL MURUGAN

Cont.P.No.973 of 2023

Sundari

.. Petitioner

VS

Thiru L.Nirmal Raj., I.A.S.,  
Transport Commissioner  
Chepauk,  
Chennai – 600 005.

.. Respondent

Prayer : Petition filed under Section 11 of the Contempt of Courts Act, 1971 to punish the respondent herein for contempt for deliberately disobeying the order of this Court dated 19.04.2021 made in W.A.NO.578 of 2021.

For Petitioner : Mr.M.Arun Kumar

For Respondents : Mr.Stalin Abhimanyu  
Additional Government Pleader

ORDER

(Order of the Court was made by Dr.ANITA SUMANTH.,J)

Mr.Stalin Abhimanyu, learned Special Government Pleader, appearing for the respondents files an affidavit to the effect necessary action has been taken to implement directions of the order of the Division Bench dated 19.04.2021.



Cont.P.No.973 of 2023

2. To be noted that, in paragraph 12 of the aforesaid order, extracted below, the appellant has been directed to take necessary steps at the earliest to confirm consequential benefits upon the writ petitioner in light of the modification of the order of punishment.

*"12.In the result, the writ appeal stands dismissed confirming the order dated 24.10.2009 made in WP.No.2918/2006 [T]. The appellant is directed to take necessary and appropriate steps at the earliest to confer all consequential benefits upon the respondent/writ petitioner, in the light of the modified order of punishment. No costs. Consequently, the connected miscellaneous petition is closed."*

3. We note that no time frame has been set out under order dated 19.04.2021.

4. The affidavit filed by respondent on 08.08.2024, reads thus:-

*"I, Thiru Shunchonngam Jatak Chiru, S/o.Raja Daneiwan, aged about 51 years and having office at the Commissionerate for Transport and Road Safety, Chennai, do affirm and sincerely state as follows:*

*1. I am the Principal Secretary Transport Commissioner of the Commissionerate for Transport and Road Safety and as such I am well acquainted with the facts of the case as available from the records. I am a competent person to swear this affidavit.*

*2. I have read the affidavit filed in support of the above Contempt Petition and I deny the correctness of all the averments contained therein except those that are specifically admitted hereunder.*

*3. At the outset, I would like to tender my unconditional apology before this Hon'ble Court without any reservation whatsoever for any of the act or commission or omission on my part that may be considered or constructed or likely to be constructed as being an act, commission or omission, in violation of the orders of this Hon'ble*



WEB COPY



Cont.P.No.973 of 2023

*Court. I would like to humbly submit that the deponent herein has the highest regard and much respect for this Hon'ble Court and obeying the orders passed by this Hon'ble Court in its letter and spirit.*

*4. I submit that W.P.No. 2918 of 2006 was filed by the petitioner with the following prayer:-*

*"It is prayed that, seeking to call for the records relating to the order in Proc. R.No. V1/87434/94, dated: 13.12.1996 issued by the Transport Commissioner, Chepauk, Chennai-5 and quash the same and to direct the respondent to reinstate the petitioner with all attendant benefits."*

*5. I submit that this Hon'ble Court in its Order dated 24-10-2009 in W. P. No. 2918 of 2006 (T) (?.?.No.952 of 2001) was pleased to order the following:-*

*"The petitioner was working only as an Office Assistant and when there is no specific complaint with regard to the petitioner, by the positive result of the phenolphthalein test alone, it cannot be held that there was a demand and acceptance by the petitioner. Apart from this, as referred to above, the petitioner was working only as an office Assistant and also there is no specific complaint as against the petitioner with regard to demand of bribe. Even as per the stand of the respondent department, only a general complaint has been received and when there is no specific case against the petitioner and also taking note of the post which the petitioner and also taking note of the post which the petitioner was holding, I am of the opinion that the punishment of compulsory retirement which was imposed when the petitioner was 48 years old is too harsh. However, at the relevant point of time, the petitioner was 48 years old. At this stage, perhaps, the petitioner would have reached the age of superannuation. Consequently, the impugned order imposing*



WEB COPY



Cont.P.No.973 of 2023

*punishment of compulsory retirement is set aside and the same is modified as a stoppage of increment for three years with cumulative effect. However, it is made clear that the petitioner is not entitled for backwages."*

6. *It is submitted that, Thiru. Y.J.Mathan, Office Assistant (deceased) of this department while working at Gudalur Check Post, under the control of RTO, Ooty was placed under suspension with effect from 25.11.1994 by the Regional Transport Officer, Ooty following a trap for demand and acceptance of a bribe of Rs.10/- from lorry cleaner while on duty. Subsequently the suspension order was revoked by the Regional Transport Officer, Ooty on 31.07.1995 F.N. and the individual joined duty at Regional Transport Officer, Ooty, on 31.07.1995 F.N.*

7) *I state that, Thiru. Y.J.Mathan, Office Assistant (deceased), formerly Office Assistant, Gudalur Check Post and lastly working at the office of the State Transport Appellate Tribunal was imposed with the punishment of "COMPULSORY RETIREMENT" from service for the proven charges vide Proceedings of the Transport Commissioner, Chennai-32 R.No.87434/V1/1994 (E.O.No.740/99) dated: 13.12.1999.*

8) *Subsequently, the individual Thiru. Y.J.Mathan, had filed W.P.No.2918 of 2006 before the Hon'ble High court of Madras. Accordingly, the Hon'ble High court of Madras in its order dated 24.10.2009 directed that, the impugned order imposing the punishment of compulsory retirement be set aside and the same be modified as a stoppage of increment for three years with cumulative effect. Further it has been stated that the petitioner was not entitled for back wages.*

9) *Following that, a writ appeal in WA.No.578/2021 & CMP.No.2396/2021 had been filed before the Hon'ble High Court of Madras by this authority. Subsequently, it has been ordered in the above Writ Appeal that,*



Cont.P.No.973 of 2023

*"The writ appeal stands dismissed confirming the order dated. 24.10.2009 made in Writ Petition.No.2918/2016 (T). Further the appellant is directed to take necessary and appropriate steps at the earliest to confer all consequential benefits upon the respondent/ writ petitioner (ie) Y.J.Mathan in the light of the modified order of punishment".*

*10) It is submitted that, the Government have issued instructions regarding issue of necessary orders for deemed retirement of Thiru. Y.J.Mathan, formerly with effect from 30.06.2015 without any back wages and to settle the terminal benefits to the legal heirs to deceased Thiru.y.J.Mathan.*

*11) It is submitted that, as per the orders of the Hon'ble High Court of Madras and the Government, to settle the terminal benefits to the legal heirs of the deceased individual, an order has been issued by stating that the individual is deemed to have been permitted to retire on the due date i.e 30.06.2015 A.N.(actual date of superannuation) without any back wages.*

*12) It is submitted that, the suspension period of the above individual for the period from 25.11.1994 to 31.07.1995 has been regularised as given below.*

| S.No  | Suspension period                                         | No. of days | Regulated as                      | As per Rule                                                       |
|-------|-----------------------------------------------------------|-------------|-----------------------------------|-------------------------------------------------------------------|
| 1     | 25.11.1994 to 21.04.1995                                  | 148         | Earned Leave                      | (Rule 11 of TNLR 1933) Rule (7) of Rule 54-B of Fundamental Rules |
| 2     | 22.04.1995 to 30.07.1995 (Joined duty on 31.07.1995 F.N.) | 100         | Extraordinary leave (Loss of pay) | (Rule 16 of TNLR 1933) Rule (7) of Rule 54-B of Fundamental Rules |
| Total |                                                           | 248 days    |                                   |                                                                   |

*13. I state that, the leave period of the above individual for the split up period from 05.04.1996 to*



Cont.P.No.973 of 2023

*12.12.1999 has been regularised as given below.*

| S.No. | Leave Period                                                           | No.of days | Regulated as                                       | As per Rule                   |
|-------|------------------------------------------------------------------------|------------|----------------------------------------------------|-------------------------------|
| 1     | 05.04.1996 to 27.05.1996<br>(Joined duty to 28.05.1996)                | 53         | Un Earned Leave on Private Affairs                 | Rule 13 & 14 of T.N.L.R. 1933 |
| 2     | 14.09.1996 to 10.10.1996                                               | 27         | Un Earned Leave on Private Affairs                 | Rule 13 & 14 of T.N.L.R. 1933 |
|       | 11.10.1996 to 17.11.1996<br>(Joined duty on 18.11.1996)                | 38         | Extraordinary leave on without medical certificate | Rule 19 of TNLR 1933          |
| 3     | 01.06.1997 to 17.07.1997<br>(Joined duty on 21.07.1997)                | 47         | Extraordinary leave on without medical certificate | Rule 19 of TNLR 1933          |
| 4     | 04.10.1997 to 16.11.1997<br>(Joined duty on 17.11.1997)                | 44         | Extraordinary leave on without medical certificate | Rule 19 of TNLR 1933          |
| 5     | 01.02.1999 to 19.11.1999                                               | 292        | Extraordinary Leave on without medical certificate | Rule 19 of TNLR 1933          |
|       | 20.11.1999 to 12.12.1999<br>(13.12.1999 onwards compulsory retirement) | 23         | Earned Leave                                       | Rule 11 of TNLR 1933          |
| Total |                                                                        | 524        |                                                    |                               |

*14. I further it is stated that, the above orders has been communicated to the Secretary, STAT, Chennai and the Secretary, STAT was sent the application for sanction of pension/ retirement gratuity to the AG, Chennai-18, vide letter No.A5/757/2024, dated: 02.08.2024. On receipt of the same the retirement benefits will be given to Tmt.Sundari, W/o.Y.J.Mathan, (Late) within 8 weeks.*

*15. It is submitted that, I humbly submit that I have great respect for this Hon'ble Court and at no point of time intended to disobey the orders passed by this Hon'ble Court. However, I would like to tender once again my unconditional apology to this Hon'ble Court in the event of this Hon'ble Court*



WEB COPY



Cont.P.No.973 of 2023

*come to a conclusion that the deponent has wilfully disobeyed the orders passed by this Hon'ble Court and to humbly pray to purge the deponent from any further proceedings."*

5. We thus close this contempt petition recording the affidavit filed by the respondent and specifically, their assurances to the effect that the needful would be done in compliance of order dated 19.04.2021 within a period of 8 weeks as assured by them under paragraph 14 above.

[A.S.M., J] [G.A.M., J]  
08.08.2024

Index:Yes/No  
Neutral Citation:Yes  
ssm



WEB COPY



*Cont.P.No.973 of 2023*

DR. ANITA SUMANTH,J.  
and  
G. ARUL MURUGAN.,J

ssm

Cont.P.No.973 of 2023

08.08.2024