



Cont.P(MD)No.1205 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 19.12.2023

ORDER PRONOUNCED ON : 23.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

Contempt Petition(MD)No.1205 of 2023

in

WP(MD).No.7510 of 2020

S.Muralidaran

... Petitioner

Vs.

1.Thiru.C.Sylendra Babu
The Director General of Police
Tamil Nadu
Chennai 600 004

2.Thiru.G.Karthikeyan
The Inspector General of Police
Central Zone
Thiruchirappalli

3.Tmt.Vandita Pandey
The Superintendent of Police
Pudukkottai District
Pudukkottai

4.Thiru K.Senthil Kumar
The Deputy Superintendent of Police
Pudukkottai District (Sub Division)
Pudukkottai

...Respondents



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PRAYER: Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971, to punish the contemnor/4th respondent in the writ petition for his wilful and deliberate disobedience of the order of this Court made in W.P(MD).No.7510 of 2020 dated 03.01.2023.

For Petitioner : Mr.K.Baalasundaram
Senior Counsel
For Mr.R.Paranjothi

For Respondents : Mr.Veera.Kathiravan
Additional Advocate General
Assisted by Mr.S.Shaji Bino
Special Government Pleader

ORDER

The instant contempt petition has been filed alleging violation of the order of this Court dated 03.01.2023 in W.P(MD).No.7510 of 2020.

2.When the petitioner was working as a Special Sub Inspector of Police at Viralimalai Police Station, Pudukkottai District, he was issued with a charge memo on 08.08.2016. After enquiry, the disciplinary authority had passed an order imposing a punishment of postponement of increment for two years which shall not operate to postpone his future increments. The Appellate Authority had



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confirmed the said punishment on 17.02.2017. The Revisional Authority had dismissed the revision on 27.06.2019. Challenging the said orders, the petitioner had filed the above writ petition in W.P(MD).No.7510 of 2020.

3.This Court by an order dated 03.01.2023 in W.P(MD).No.7510 of 2020 while refusing to interfere with the quantum of punishment, passed the following order:

“4.In view of the limited request made by the learned counsel for the petitioner, this Court without interfering with the order impugned in this writ petition, directs the respondents, if the currency of punishment is over, the official respondent is directed to consider the petitioner's request for benefits including the promotion, if any, within a period of 12 weeks from the date of receipt of a copy of this order.”

4.According to the contempt petitioner, even after the currency of punishment was over, the third respondent by an erroneous interpretation of the order of this Court dated 03.01.2023 had rejected the request of the petitioner. Hence, the present contempt petition.

5.The learned Senior Counsel appearing for the contempt petitioner had contended that the punishment was imposed by the disciplinary authority on 13.10.2016 and the currency of the said punishment was over in the year 2018



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itself. However, by an erroneous interpretation of the order of this Court, the respondents have rejected the said request citing Earned Leave availed by the writ petitioner on medical grounds. Hence, he prayed for initiating contempt proceedings.

6.The learned Additional Advocate General appearing for the respondents had contended that the period of Earned Leave availed by the contempt petitioner has to be excluded for calculating the currency of punishment for a period of two years. In fact, the contempt petitioner had availed 71 days Earned Leave and therefore, if this period is excluded, the currency of punishment will expire only on 10.12.2019. However, the petitioner had attained superannuation on 30.11.2019 itself. Since the petitioner had attained superannuation before expiry of the currency of punishment, the monetary and retirement benefits sought for by the writ petitioner cannot be granted. That apart, wrong understanding of an order could never be considered to be wilful disobedience of the order of this Court. Even assuming that the order is erroneous, the same will not constitute wilful disobedience of the order of this Court. Hence, he prayed for dismissal of the contempt petition.

7.I have considered the submissions made on either side and perused the material records.



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8.The petitioner has been imposed with punishment of postponement of increment for two years without cumulative effect on 13.10.2016. The petitioner had already received his increment for the year 2016 on 01.10.2016 itself. Therefore, the punishment could be imposed upon the petitioner only on 01.10.2017 and 01.10.2018 respectively. Therefore, the currency of punishment expires only on 31.09.2019. In view of the fact that the stoppage of increment for two years is without cumulative effect, the petitioner would be entitled to receive increment for the year 2017 and 2018 along with increment for the year 2019 on 01.10.2019. The petitioner had attained superannuation only on 31.11.2019. Therefore, the petitioner should have been conferred with all increments that were stopped (2017 and 2018) on 01.10.2019 along with increment for the year 2019.

9.The only reason for not conferment of this benefit is the Earned Leave that has been availed by the writ petitioner as pointed out in the order dated 23.03.2023. The Tabular Column in the said order is extracted as follows:

From	To	Days
06.10.2017	22.10.2017	17 days EL (M)
25.03.2018	03.04.2018	10 days EL(M)
10.08.2018	30.08.2018	21 days EL (M)
31.08.2018	18.09.2018	19 days LWP (M)
15.02.2019	18.02.2019	04 days EL(M)
Total		71 days



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10.A perusal of the above said tabular column would reveal that the contempt petitioner had availed Earned Leave on medical grounds. Rule 26(bb) of the Tamil Nadu Government Fundamental Rules is extracted as follows:

“26(bb): All leave except extraordinary leave taken otherwise than on medical certificate counts for increments in the time-scale applicable to a post in which a Government servant was officiating at the time he proceeded on leave and would have continued to officiate but for his proceeding on leave. The period which counts for increments under this clause is, however, restricted to the period during which the Government servant would have actually officiated in the post:

Provided that the Government shall have power in any case in which they are satisfied that the leave was taken for any cause beyond the Government servant's control to direct that extraordinary leave shall be counted for increment under this clause.”

11.A perusal of the said Fundamental Rules will clearly reveal that all the leave (except extraordinary leave taken otherwise than on medical certificate) counts for increment in the time scale applicable to a post in which a Government servant was officiating at the time he proceeded on leave. Only if a member of service had taken extraordinary leave without medical certificate, that leave could



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not be counted for increment. In the present case, the entire leave for 71 days has been availed by the contempt petitioner only on medical certificates. Therefore, the said leave period cannot be excluded while reckoning two year period of currency of punishment. Therefore, the currency of punishment had expired on 31.09.1999 itself. In fact, in a communication addressed to the contempt petitioner on 07.03.2019 under RTI Act, it has been specifically admitted that his increment would be released on 01.10.2019.

12. Whenever a punishment of postponement without cumulative effect is imposed, it never results in monetary loss. It only postpones the payment of increment for a certain period of time which is mentioned in the punishment order. In the instant case, the increment for the year 2017 and 2018 would be withheld in view of the punishment, but the said increment should have to be released along with increment for the year 2019 on 01.10.2019. Therefore, citing the availing of legally permissible leave, the respondent authorities have erroneously rejected increment. In view of the check period for five years, the petitioner would not be entitled for any promotional opportunity for a period of five years from 31.09.2019 onwards. The petitioner having attained superannuation on 30.11.2019, would not be entitled to be considered for any



promotion. However, he would be entitled to receive the increment for the year 2017, 2018 and 2019.

13. In view of the above said facts, it is clear that the respondent authorities have erroneously interpreted the order of this Court without properly appreciating the relevant Fundamental Rules. In fact, the note below Illustration-III for Fundamental Rules 26(a) will clearly reveal that the punishment of stoppage of increment without cumulative effect does not postpone the future increments.

14. The above said facts will clearly reveal that the authorities were under erroneous impression that availing of Earned Leave on medical ground for reckoning the period of currency of punishment and they have not properly considered F.R.26(bb) and Illustration-III for Rule F.R 26(a). Therefore, this Court is of the considered opinion that the order dated 23.03.2023, though it may be erroneous, it would not amount to wilful disobedience and therefore, this Court is not inclined to consider the same as contempt of Court. However, the order dated 23.03.2023 being erroneous in nature, the third respondent in the contempt petition is directed to pass a revised order in the light of the observation made by this Court.



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15. With the above said observations, this contempt petition stands closed.

No costs.

23.02.2024

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

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Tamil Nadu
Chennai 600 004

2.The Inspector General of Police
Central Zone
Thiruchirappalli

3.The Superintendent of Police
Pudukkottai District
Pudukkottai

4.The Deputy Superintendent of Police
Pudukkottai District (Sub Division)
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R.VIJAYAKUMAR, J.

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