

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON : 13.06.2025

PRONOUNCED ON : 18.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

Cont.P.No. 2350 of 2024

C.Rengaswamy Pandian

... Petitioner/Petitioner

Vs

1. Thiru.Pradeep Yadav I.A.S.,
Secretary to the Government
Highways Department and Minor Ports Department
Fort St. George, Chennai -9.
2. Thiru. R.Chandrasekar
The Director General
Highways Department
Chepauk, Chennai -5.

...Respondents/Respondents

PRAYER: Contempt Petition filed under Section 11 read with Section 12 of the Contempt of Court Act, 1971 to punish the respondents for the wilful disobedience of the order dated 19.07.2023 passed in W.P.No. 26457 of 2016.

For Petitioner : Mr. N.Subramaniyan

For Respondents : Mr. M.Murali



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Government Advocate

ORDER

Contempt Petition has been filed to punish the respondents for disobedience of the order of this Court dated 19.07.2023 in W.P.No. 26457 of 2016.

2. W.P.No. 26457 of 2016 had been filed in the nature of Certiorarified Mandamus seeking records relating to the order granted in G.O.(2D).No. 7, Highways and Minor Ports (HL2) Department dated 05.02.2016 issued by the first respondent / the Secretary, Highways Department and Minor Ports Department, Chennai and to quash the same and to direct the respondents to settle all the retirement benefits of the petitioner like pension and other such benefits which had not been paid due to the charges imposed on the petitioner. The petitioner also claimed interest for delayed payment and compensation for unlawful sufferings he had to undergo.

3. The Writ Petitioner C.Rengaswamy Pandian was originally appointed as Assistant Engineer in Highways Department on 04.01.978 by the Tamil Nadu Public Service Commission. He was promoted as



Assistant Divisional Engineer on 11.06.1998. He was suspended by an order dated 23.09.2010. On the date when he was to retire on attaining the date of superannuation on 30.09.2010, an order was passed not permitting him to retire from service. Disciplinary proceedings were then initiated against the petitioner.

4. The petitioner was in charge of measuring the work of relaying done for two roads which were sanctioned as Karukanni Konar Veettu Salai for a distance of 1 km for which the estimated cost was Rs. 4/- lakhs and another street, namely, Karukanni Eda Street, for a distance of 1 km for which the estimated cost was Rs. 4/- lakhs. Both the streets were situated at Kovilpathu Salai at Agragaram Street to Burial Ground Salai.

5. The charge against the petitioner was that the contractor instead of relaying these two roads had relaid two other roads. It was held that the petitioner was in a supervisory capacity and therefore did not inspect the ongoing work to ensure that the correct roads were being laid. Five separate charges had been framed against the petitioner surrounding the same issue. Disciplinary proceedings had been initiated. The enquiry Officer held that the charges have not been established. The Disciplinary Authority however came to a conclusion that the 1st and 4th charges were



partly established and the 5th charge was established. The petitioner was called upon to give additional explanation. The petitioner gave his additional explanation but the order impugned was then passed and it was held that owing to the petitioner not inspecting periodically the works, there was total loss of Rs.16/- lakhs and the petitioner was directed to pay the said amount into treasury accounts.

6. This Court by an order dated 19.07.2023 had held as follows:-

"14. It can always be observed by this Court that the petitioner was called upon to give an additional explanation when it was already decided to reject the same and to hold that it is not acceptable. The Court can come to a conclusion that the first respondent would not have even read the explanation to find out reasons as to why they are not acceptable. These are the issues which forces this Court, at this late stage, to set aside the order insofar as non-consideration of the explanation is concerned.

15. The first respondent will have to conduct further examination of the additional explanation given by the petitioner herein and examine it with an open mind. It is hoped that for this exercise, another official re-examines the entire issue. To clarify that the correct papers are being examined and it would only be

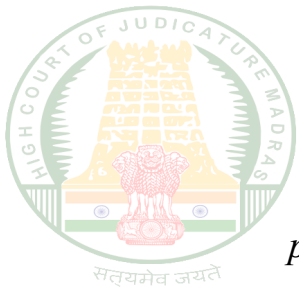


appropriate that the official who now re-examines so far as explanation given by the petitioner is concerned, issues notice to the petitioner and clarify that the actual papers are available and then, re-examine the entire issue. This would primarily be focused on the explanation given by the petitioner herein

16. Learned counsel for the petitioner gave several explanations. He stated that the this being a village there were no name boards and the petitioner being in the administrative section only as supervisory officer, made inspection of the work which was going on and did not verify the name of the road since the name board is not available. He stated that the village panchayat president, who was physically there and the contractor who had taken the work of contract, should have been aware of these facts.

17. It is the grievance of the learned counsel that thrse factors had been stated in the additional explanation which had not been taken into consideration at all. The first respondent as Disciplinary Authority has additional responsibility to re-examine the entire file. He should also examine the file with the prejudged intention to reject the explanation as not acceptable.

18. There is also another issue of the quantum, which is directed to be recovered from the petitioner herein. I would leave that to the wisdom of the petitioner herein, to raise grounds relating to the quantum. If they are so raised, the first respondent may re-examine that



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particular aspect also. To the extent of reexamination to these two aspects, the matter has to be reverted back to the first respondent. Let another official, not the official who passed the impugned order, now examine the case of the petitioner herein.

19. The entire exercise may be completed within a period of four months from the date on which fresh officer is nominated by the first respondent to re-examine the entire issue on the basis of the observations stated above.

20. In view of the above reasoning, this writ petition stands partly allowed to that particular extent of re-examining the two issues stated above. No costs. Connected miscellaneous petition is closed. "

7. Thereafter the petitioner had given a further representation on 05.08.2023 raising additional points against the quantum of recovery. Since orders had not been passed as directed, the Contempt Petition had been filed.

8. This Court had issued statutory notice to the first respondent. Immediately, thereafter, the first respondent issued G.O.Ms. No. 13 dated 26.03.2025 imposing a punishment of recovery of Rs.2.6/- lakhs. It is contended by the petitioner that this order was passed without considering



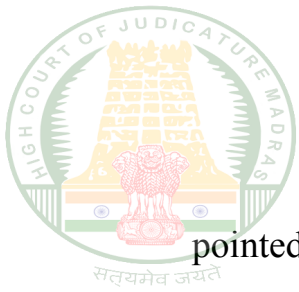
any of the points raised by him in his reply.

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9. It is contended by Mr. N.Subramaniyan that the passing of the said order without considering the points raised by the petitioner itself a contempt of the court.

10. The petitioner had then filed W.P.No. 14213 of 2025 challenging the order in G.O.Ms. No. 13 dated 26.03.2025. The learned counsel Mr.N.Subramaniyan contended that when an order is passed by the respondents, holding that it was in compliance of the directions of this Court but had actually not complied with the order of the Court in letter and spirit, the respondents are still be held to have committed contempt of Court.

11. However, Mr.M.Murali, learned Government Advocate appearing for the respondents contended that the first respondent had examined all the contentions raised by the petitioner in his additional explanation and had actually reduced the quantum of punishment of recovery from a sum of Rs.16/- lakhs to a sum of Rs.2.6/- lakhs. The learned Government Advocate contended that this itself would show that there has been application of mind by the first respondent. He further



pointed out that the said order is the subject matter of W.P.No. 14213 of 2025 and therefore, urged that in this contempt petition, the Court cannot again enter into a discussion on the correctness of the reasons given in G.O.Ms. No. 13 dated 26.03.2025 .

12. Mr.N.Subramaniam however placed reliance on the order of the Supreme Court reported in ***(2020) 17 SCC 305 [State of Bihar and Others Vs. Meera Tiwary and another]*** wherein the Hon'ble Supreme Court had held that in contempt proceedings, the High Court is entitled to pass orders in effective enforcement of the order of which violation is alleged. In that case, it had been observed as follows:-

"13. After the disposal of the writ petition, in the absence of any disciplinary proceedings or show-cause notice or other material, it is not open to the authorities concerned to deny Respondent 1 the benefits pertaining to the post to which her husband had been promoted, on the purported ground that he had failed to join the post and had allegedly remained absent from duties for a period of 13 years and 10 months. We cannot, but take notice of the fact that there were two orders of promotion, the first ad



hoc, and the second, a regular promotion order, as per the list of dates filed by the appellants along with the appeal. The ad hoc promotion has inadvertently and/or erroneously been referred to as substantive promotion in the list of dates.

14. It is preposterous that a second order would have been issued confirming the promotion to the post of Assistant Engineer, if late Amardeo Tiwari had not joined the post pursuant to the earlier order and had remained absent. Significantly, there is not a whisper of the exact date from which late Amardeo Tiwari allegedly stopped attending to his duties and remained absent. It seems quite absurd that a person promoted on ad hoc basis, who had not been attending to his duties should be promoted on regular basis. It is equally difficult to accept that a person who had been attending to his duties would suddenly stop attending to his duties upon his promotion to a higher post.

15. In proceedings for contempt, the High Court is entitled to pass orders for effective enforcement of an order of which violation is alleged. By the order dated 21-9-2004 [Meera Tiwary v. State of Bihar, CWJC No. 11497 of 2004, decided on 21-9-



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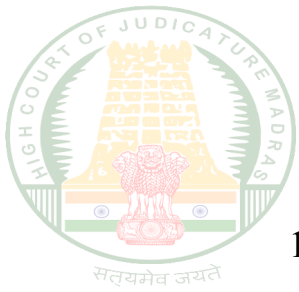


2004 (Pat)], the High Court directed the authorities to finalise the retiral dues on account of Shri Amardeo Tiwari, since deceased. The High Court directed release of the retiral dues of Shri Amardeo Tiwari, since deceased, in entirety and not in part.

16. As observed above, the authorities concerned did not finalise the dues, but only sanctioned and/or released provisional gratuity and provisional pension and that too on the basis that Shri Amardeo Tiwari, since deceased, had continued to be a Junior Engineer as on the date of his retirement.

17. It was not open to the appellants to circumvent the order passed by the High Court and release provisional pension and gratuity and that too calculated in relation to the salary and emoluments of a lower post. "

13. A careful perusal of the above order shows that there were no disciplinary proceedings or show cause notice issued to the respondent before the Hon'ble Supreme Court and therefore, the Hon'ble Supreme Court had held that there could be no reason advanced to deny the benefits pertaining to the post.



14. The one factor that had played on the minds of the Hon'ble Supreme Court was that no show cause notice or disciplinary proceedings had been commenced for alleged absence of 13 years and 10 months. It was under those circumstances that the Hon'ble Supreme Court had held that the High Court was justified in directing effective enforcement of the order of which violation was alleged.

15. In the Judgment reported in **(2006) 5 SCC 399 [Mindnapore Peoples' Coop. Bank Ltd., and Others Vs. Chunilal Nanda and Others]**, the Hon'ble Supreme Court had occasion to examine the scope of the nature of orders that could be passed in a contempt petition. The Hon'ble Supreme Court had held as follows in paragraph No.11 :-

“11. The position emerging from these decisions, in regard to appeals against orders in contempt proceedings may be summarised thus:

I. An appeal under Section 19 is maintainable only against an order or decision of the High Court passed in exercise of its jurisdiction to punish for contempt, that is, an order imposing punishment for contempt.

II. Neither an order declining to initiate proceedings for contempt, nor an order



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initiating proceedings for contempt nor an order dropping the proceedings for contempt nor an order acquitting or exonerating the contemnor, is appealable under Section 19 of the CC Act. In special circumstances, they may be open to challenge under Article 136 of the Constitution.

III. In a proceeding for contempt, the High Court can decide whether any contempt of court has been committed, and if so, what should be the punishment and matters incidental thereto. In such a proceeding, it is not appropriate to adjudicate or decide any issue relating to the merits of the dispute between the parties.

IV. Any direction issued or decision made by the High Court on the merits of a dispute between the parties, will not be in the exercise of “jurisdiction to punish for contempt” and, therefore, not appealable under Section 19 of the CC Act. The only exception is where such direction or decision is incidental to or inextricably connected with the order punishing for contempt, in which event the appeal under Section 19 of the Act, can also encompass



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the incidental or inextricably connected directions.”

16. With specific reference to the observations in paragraph No. 11 (3) & (4) referred *supra*, the Hon'ble Supreme Court had further expanded that aspect in paragraph Nos. 21 which is as follows:-

“21. There was also no justification for the further direction by the learned Single Judge in the contempt proceedings, that too by an interlocutory order, that the complainant should immediately and forthwith be reinstated into the service of the Bank, and shall be deemed to be in the service of the Bank all through, that the employee shall not be prevented in any manner from discharging his duties and that he shall be paid all arrears of salary within four weeks, and that the suspension order shall be deemed to have been revoked. These were totally outside the scope of the proceedings for contempt and amounted to adjudication of rights and liabilities not in issue in the contempt proceedings. At all events, on the facts and circumstances, there was no disobedience, breach or neglect on the part of the Bank and its President and Secretary, to provoke the Court to issue such directions, even assuming that such directions



could be issued in the course of the contempt proceedings. Hence, Directions 2 and 3 and the direction relating to revocation of suspension are liable to be set aside.”

17. In an earlier order of the Hon'ble Supreme Court reported in ***(2002) 5 SCC 352 [Jhareswar Prasad Paul and Another Vs. Tarak Nath Ganguly and Others]***, the Hon'ble Supreme Court had further examined the nature of the order that could be passed in a contempt petition. It had been very specifically held that the Court should first hold that there was deliberate disobedience of the order of the Court. The Hon'ble Supreme Court had held as follows in paragraph No.11:-

“ 11.It is to be kept in mind that the court exercising the jurisdiction to punish for contempt does not function as an original or appellate court for determination of the disputes between the parties. The contempt jurisdiction should be confined to the question whether there has been any deliberate disobedience of the order of the court and if the conduct of the party who is alleged to have committed such disobedience is contumacious. The court exercising contempt jurisdiction is not



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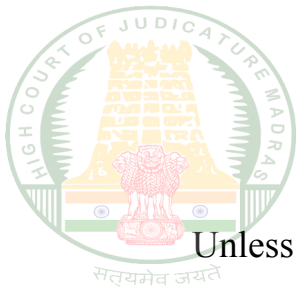


entitled to enter into questions which have not been dealt with and decided in the judgment or order”

18. In the instant case, the respondents have applied their mind to attempt to comply with the directions of this Court while passing G.O.Ms. No. 13 dated 26.03.2025. The petitioner had been granted with some benefit if not the entire benefit. The punishment had been reduced from Rs.16/- lakhs to Rs.2.6/- lakhs.

19. The grievance of the learned counsel Mr. N.Subramaniyan is that the respondents had failed to consider the additional grounds raised in the further representation given by the petitioner. But the petitioner would have ample opportunity to raise the very same issue again in W.P.No. 14213 of 2025 which is also pending.

20. The fact that the respondents had passed G.O.Ms. No. 13 dated 26.03.2025 would indicate that the respondents had not deliberately disobeyed or violated the orders of this Court. Mistakes or non consideration of the points raised cannot be stated to be deliberate disobedience of the order of the Court. An error in the order again cannot be stated to be deliberate disobedience. Non observation of certain facts pleaded cannot also be stated to be deliberate disobedience. Orders are passed to the limited knowledge of the authority, who passes the order.



Unless the order is malafide and extremely perverse in nature, it cannot be stated to be in Contempt of Court.

21. I hold that since the respondents had actually passed G.O.Ms. No. 13 dated 26.03.2025 which order is the subject matter of challenge in W.P.No. 14213 of 2025, this Contempt Petition necessarily have to be dismissed and accordingly, the same is dismissed. No costs.

18 .07.2025

vsg

Index: Yes/No

Speaking order / Non speaking order

C.V.KARTHIKEYAN, J.

Vsg

Pre Delivery Order made in

Cont.P.No. 2350 of 2024



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