

CONT P(MD)Nos.1633 and 1696 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.02.2025

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

CONT P(MD)Nos.1633 and 1696 of 2024

and

Sub A(MD)Nos.321 to 324, 331 and 332 of 2024

CONT P(MD)No.1633 of 2024:

M.Ligi Rethna Bai

... Petitioner

vs.

- 1.C. Nedunchezian, IAS,
The Accountant General,
Office of the Accountant General,
Chennai, Tamil Nadu,
261, Annasalai,
Chennai-600 018.
- 2.Kumaragurubaran, IAS,
The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort St. George, Chennai-600 009.
- 3.G. Arivoli,
The Director of School Education,
College Road, Chennai-600 006.
- 4.Bala Dhandayuthapani,
The Chief Educational Officer,
Kanyakumari District at Nagercoil,
Kanyakumari District – 629 001.



CONT P(MD)Nos.1633 and 1696 of 2024

5.Marimuthu,
The District Educational Officer,
Kuzhithurai,
Kanyakumari District.

... Contemnors

PRAYER: Petition filed under Section 11 of the Contempt of Court Act, 1971, to punish the contemnors for willfully disobeying and not complying with the order of this Court, dated 09.01.2019, in W.P.(MD)No.1637 of 2015.

CONT P(MD)No.1696 of 2024:

D.Paul Daniel

... Petitioner

vs.

- 1.C.Nedunchezian, IAS,
The Accountant General,
Office of the Accountant General,
Chennai, Tamil Nadu,
261, Annasalai,
Chennai-600 018.
- 2.Kumaragurubaran, IAS,
The State of Tamil Nadu,
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5. Marimuthu,
The District Educational Officer,
Kuzhithurai,
Kanyakumari District.

... Contemnors

PRAYER: Petition filed under Section 11 of the Contempt of Court Act, 1971, to punish the contemnors for willfully disobeying and not complying with the order of this Court, dated 09.01.2019, in W.P.(MD)No.1636 of 2015.

In both cases:

For Petitioner	: Mr.R.Maheswaran
For Contemnors	: Mr.V.Om Prakash
	Government Advocate

COMMON ORDER

The aforesaid contempt petitions are filed alleging non-compliance of the orders dated 09.01.2019 passed by the Court in W.P.(MD)No.1637 of 2015 and W.P.(MD)No.1636 of 2015

2. The Court has issued statutory notice and the contemnors are present before this Court.

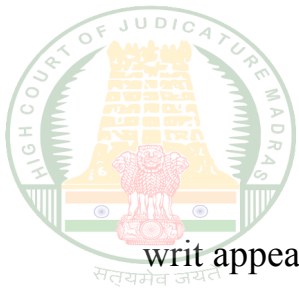
3. Admittedly, the petitioners were “Part Time Sweepers”. The petitioner M.Ligi Rethna Bai was appointed as “part time sweeper” on 14.12.1990 and Paul Daniel was appointed on 02.12.1992. Based on their long service for more than 10



years, the petitioners sought regularization of their service. When the respondents rejected the claim of regularization, the writ petitioners had approached the Court, wherein the Court had allowed their petitions. Thereafter based on the Court orders and based on their long service as one of the qualifications, their services were regularized. The petitioners had received their salary as stated in the order of regularization.

4. Thereafter the petitioners by relying on the Rule 11(4) of the Tamil Nadu Pension Rules, 1978, prayed to add their 50% of the service rendered in non-provincialized service along with the pensionary service and to grant pension. When the plea of the petitioners was rejected, the petitioners had again approached the Court and the writ petitions were allowed vide order dated 09.01.2019. The respondents had submitted the proposal based on the orders of the Court and finally the Accountant General had disbursed the pension vide order dated 09.07.2019 to M.Ligi Retina Bai and on 09.12.2019 to D.Paul Daniel.

5. However, the respondents had preferred writ appeal belatedly with delay of 1345 days in the case of M.Ligi Retina Bai and 1321 days in the case of D.Paul Daniel. The Hon'ble Division Bench refused to condone the delay and rejected the



writ appeal in SR stage itself.

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6. Aggrieved over the government had preferred SLP. The SLP filed against the D.Paul Daniel was dismissed, however the Hon'ble Supreme Court had held the question of law is left open. And also held the dismissal of the SLP shall not be treated as binding precedent. However, the SLP filed against M.Ligi Retina Bai is still pending.

7. It is seen that even though pension was disbursed, since the interest for the belated disbursement of pension was not paid, the petitioners had initiated contempt proceedings. But the contempt petition filed after lapse of five years. When the plea of belated contempt was raised by the contemnors, the Court had rejected the said plea and had held the contempt is maintainable. Thereafter, the Court had taken cognizance of the alleged contempt and issued statutory notice to the contemnors. The 1st contemnor, Accountant General had filed counter and submitted that based on the orders of the government alone they would disburse the amount and prayed the exonerate from contempt. Accepting the said submission the Hon'ble Court had exonerated the 1st respondent from contempt. However, the contempt proceedings against other contemnors were proceeded



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8. The Learned Counsel appearing for the petitioners vehemently argued for the interest portion and submitted non-payment of interest portion as per the order of the Court amounts to contempt. However, the respondents/contemnors submitted that if the interest of 18% is paid then the government would be put to severe financial loss, thereby the government would be seriously prejudiced. Further, submitted that the order of the Hon'ble Court was complied with long back and only for the interest portion the respondents had preferred writ appeal. Further if the same is paid then all the similarly placed persons would claim 18% interest and it would amount to opening the floodgates.

9. This Court had considered the rival submissions. Earlier the government departments had appointed part time/full-time daily wages for certain categories of employment. Then the government had taken policy decision that in future certain categories of employment, especially sweepers and scavengers, bill collectors etc. would be outsourced. And also taken a policy decision to grant regularization for the existence employers and the eligibility criteria was fixed by issuing G.O.Ms.No.22 to grant regularization. But when the part time employees



were granted regularization, the Government had issued G.O.Ms.No.74 P &AR

Department dated 27.06.2013 declining regularization for part time employers.

When the same was put to challenge, the Courts directed to grant regularization for part time employees also. Therefore, the government was burden with more than 1000 such part time employers for regularization for both the part time and full-time employees. Infact the government was planning to stop employing, but reverse happened and the government employed them based on Court orders. Hence the government was constraint to pay salary in time scale, then pension. Now the government is put in a position to pay interest to said petitioners, part time employees. If the same is paid to the petitioners, then all the similarly persons would again demand interest for the belated payment of pension and other benefits, then the government ought to face severe financial constraint. Ultimately the government ought to pay the same from the public fund. Therefore, this Court accepts the difficulty expressed by the government.

10. Further it is seen that the government had filed the writ appeal with delay of 1345 days i.e. four years delay. However, the contempt petition is filed with delay of 1825 days i.e. five years delay. This Court is of the considered opinion that when the writ appeal filed by the government was dismissed due to



huge delay, then it would be appropriate to dismiss the contempt for the same reason of delay. It is pertinent to state that the Hon'ble Division Bench had held that it is because of the contempt the respondents had filed the writ appeal, but the aforesaid fact seems otherwise.

11. Furthermore, the order passed in the writ petition is on 09.01.2019. The government had submitted the proposal based on the orders of the Court and finally the Accountant General had disbursed the pension vide order dated 09.07.2019 to M.Ligi Retina Bai and on 09.12.2019 to D.Paul Daniel. When the government had paid the pension, thereby the government had substantially complied with the order passed by this Court. Hence there is no willful disobedience by the respondents/contemnors, but for the genuine difficulties expressed by the contemnors as stated supra.

12. Therefore, this Court is of the considered opinion that the orders passed by the Court are substantially complied with, hence there is no willful disobedience as alleged by the petitioners. Hence, the contempt petitions are closed. No costs. Consequently, connected sub applications are closed.

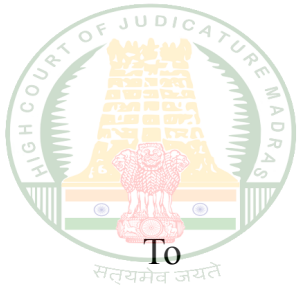


13. It is pertinent to record that in Kanyakumari District, for regularization the individuals are preferring police complaints and the officials are facing FIR. There are some complaints before District Collector and some threaten to commit suicide before District Collector since regularization was not granted. Infact this has become a modus operandi for regularization. Further, as far as regularization is concerned, the Government alone is empowered to grant regularization and filing complaints before police and registering FIR against officials cannot be permitted and such practice ought to be deprecated. At one point of time such modus operandi ought to be curtailed. Further the government has power to regularize by granting consolidated pay for some period, thereafter bring the individual for time scale of pay. Furthermore, the government is handling the public money and the government is having full data of its income and expenditure, hence the government is having full power to fix the pay. With this observation, this Court is closing the contempt petitions.

Index : Yes / No
Internet : Yes

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S.SRIMATHY, J

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