

(2010) 10 MAD CK 0188

In the Madras High Court

Case No : Contempt Petition (md) No. 495 of 2008

K. Karmegam Headmaster (Retired) Government Kallar
Higher Secondary School

APPELLANT

Vs

S. Somasundaram District Revenue Officer

RESPONDENT

Date of Decision : 29-10-2010

Acts Referred:

Citation : (2010) 10 MAD CK 0188

Hon'ble Judges : M. Jaichandren, J

Bench : Single Bench

Advocate : R. Inbaraj, for the Appellant; R. Janakiramulu, Spl. Govt. Pleader, for the Respondent

Final Decision : Dismissed

Judgement

M. Jaichandren, J.—Heard Mr. R. Inbaraj, the learned Counsel appearing on behalf of the Petitioner, and Mr. R. Janakiramulu, the learned Government Advocate appearing on behalf of the Respondent.

2. This petition has been filed praying that this Court may be pleased to punish the Respondent for willful disobedience of the order of this Court, dated 13.11.2007, made in W.P.(MD) No. 8930 of 2007, which reads as follows:

1. The prayer in the writ petition is to quash the order dated 09.02.2004.

2. The learned Counsel for the Petitioner submits that the impugned order of recovery was passed without any notice on the ground of audit objection by stating that wrong fixation of pay was made. The learned Counsel also submits that the similar order passed against one Ramachandran was already quashed by this Court, in W.P. No. 32814 of 2005, dated 22.02.2006.

3. In view of the said undisputed facts and having regard to the fact that the recovery order is passed without any notice and the salary having been fixed without any suppression of the fact on the part of the Petitioner, the impugned

order of recovery cannot be sustained and consequently the impugned order is set aside and the writ petition is allowed in terms of order passed in W.P. No. 32814 of 2005, dated 22.02.2006. No costs. Consequently, the connected miscellaneous petition is closed.

3. The main contention of the learned Counsel appearing on behalf of the Petitioner is that the Respondent ought to have refunded the amount already recovered from the Petitioner, as it had been done in the case of one A.C. Ramachandran, who had obtained a similar order from this Court, on 22.02.2006, in W.P. No. 32814 of 2005.

4. It is noted that the prayer in the writ petition filed by the Petitioner is for a writ of certiorari to call for and quash the order of the Respondent, dated 09.02.2004, in Na. Ka. No. H1/14628/2002, seeking to recover the excess amount paid to the Petitioner, as salary. This Court, by its order, dated 13.11.2007, had set aside the impugned order of the Respondent, dated 09.02.2004, by stating that the writ petition is allowed in terms of the order passed, in W.P. No. 32814 of 2005, on 22.02.2006. However, there is no direction to the Respondent to refund the amounts already recovered from the salary of the Petitioner, either in the order passed by this Court, on 13.11.2007, in W.P. (MD) No. 8930 of 2007, or in its order, dated 22.02.2006, in W.P. No. 32814 of 2005.

5. In such circumstances, the claim of the Petitioner that the Respondent ought to have refunded the amount recovered from the Petitioner, as it had been done in the case of one A.C. Ramachandran, cannot be sustained. As such, it cannot be said that the failure of the Respondent to refund the amounts already recovered from the Petitioner would amount to willful disobedience of the order passed by this Court, on 13.11.2007, in W.P.(MD) No. 8930 of 2007. Thus, it is clear that the contempt petition is devoid of merits and hence, it stands dismissed. No costs.