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K. MADALAIMUTHU AND ANR.
v.
STATE OF TAMIL NADU AND ORS.

FEBRUARY 27, 2007

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[DR. AR. LAKSHMANAN AND ALTAMAS KABIR, JJ.]

Constitution of India, 1950:

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Article 129—Contempt petition—Alleging disobedience and disrespect to orders passed by Supreme Court—Meanwhile petitioners promoted with consequential benefits and orders of the Court stated to have been fully complied with—Held, in view of unqualified and unconditional apology tendered by alleged contemnors, the contempt petition is disposed of—Contempt of Court.

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Service Law—Tamil Nadu Registration Service—Promotion to the cadre of Additional Inspector General of Registration.

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Petitioners filed the contempt petition alleging disobedience and disrespect to the judgment and order dated 4.7.2006 passed by the Supreme Court. It was also prayed that the order dated 25.7.2006 passed by the alleged contemnors promoting an officer junior to the petitioners be set aside and contemnors be directed to redetermine the seniority in terms of the judgment dated 4.7.2006 and to promote the petitioners to the post of Additional Inspector General of Registration in the Tamil Nadu Registration Service.

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Meanwhile the petitioners were promoted and the order dated 4.7.2006 was stated to have been fully complied with. The alleged contemnors tendered unqualified and unconditional apology and stated that there was no intention to disobey the orders of the Court; and implementation of the orders was delayed only due to administrative and procedural delay.

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Disposing of the contempt petition, the Court

HELD: The apology appears to be genuine. Since the respondents have purged the contempt, taking a lenient view of the matter and considering their age and future prospects, the Contempt petition is disposed of by accepting

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their unconditional apology tendered in the Court and in the affidavits. The statement made at the Bar that the salary and other consequential benefits consequent upon the promotion shall be given to the petitioners in accordance with rules, is placed on record. [Paras 12 and 13] [398-B-C]

CIVIL APPEALLATE JURISDICTION : Contempt Petition (C) No. 208 of 2006.

In

Civil Appeal No. 2791-2793 of 2002.

From the Judgment and final Order dated 24.12.2001 of the Madras High Court in Writ Petition Nos. 16806/98, 1548 & 1549 of 1999.

K. Ramamurthy, B. Balaji and Satya Mitra Garg for the Petitioners.

Soli J. Sorabjee, Altaf Ahmad, V.G. Pragasam, S. Vallinayagam and S. Prabhu Ramasubramanian for the Respondents.

P.R. Kovilan Poongkuntran, V. Vasudevan, Naresh Kumar, S. Ravishankar, R. Yamunah Nachiar, Vidushi Tandon for the Intervenors.

The Judgment of the Court was delivered by

DR. AR. LAKSHMANAN, J. 1. We have heard Mr.K.Ramamoorthy, learned senior advocate for the petitioners and Mr.Soli J.Sorabjee and Mr.Ataf Ahmad, learned senior advocates for the respondents.

2. The above Contempt Petition was filed by Mr.K.Madalaimuthu and Mr.A.Arumuga Nainar against Mr.M.Devaraj, IAS and Mr.M.Muthusamy, IAS to initiate contempt proceedings against them for having deliberately, wilfully disobeyed and disrespected the Judgment and Order dt.04.07.2006 passed by this Court in CA No.2791-2793/2002 and punish the respondent-contemnors for the said violation, disobedience and disrespect to the said Order of this Court. A further prayer was also made to set aside the Orders passed by the contemnors dated 25.07.2006 by which the junior of the petitioners had been promoted to the cadre of Additional Inspector General of Registration and order dated 10.08.2006 of the first contemnors by which the said junior had been posted as Additional Registrar of Chits in the cadre of Additional Inspector of Registration in the existing vacancies.

A 3. The third prayer is to direct the contemnors to re-determine the seniority in terms of the Judgment 04.07.2006 passed by this Court in C.A.No.2791-2793/2002 and to promote the petitioners to the cadre of Additional Inspector General of Registration in the Tamil Nadu Registration Service.

B 4. On service of notice, both the respondents have appeared before us on the last occasion.

C 5. The respondents have filed reply affidavit through Mr.M.Devaraj, I.A.S. explaining the delay in complying with the order of this Court. In para 3, Mr.Devaraj has tendered his unconditional apology for his action. In the concluding portion of the affidavit, he has stated that there was no intention to disobey the orders of this Court and that the implementation of the Orders was delayed only due to administrative and procedural delay. It is further stated that the respondents have been implementing Orders issued by this Court in various matters with very high regards and in letter and spirit.

D 6. In para 6 of the said affidavit, he expressed his sincere sorry for the delay in complying with the Orders of this Court and the same has been caused due to the reasons mentioned in para supra of the said affidavit. It is also stated that it was never his intention to disobey the Orders of this Court and that he has great respect for this Court and its Orders.

E 7. In the concluding portion, he once again tendered his unqualified and unconditional apology and pray that the action of the respondents may not be considered as violating any of the Orders of this Court and purge this Contempt proceedings.

F 8. We have also perused the orders passed by the Department - G.O.(Ms.) No.151 dt.24.11.2006 (Annexure R-1) issued by the Commercial Taxes and Registration Department and also the proceedings of the Inspector General of Registration (Annexure R-2) dt.24.11.2006. An additional affidavit was also filed on behalf of the respondents through Mr.M.Devaraj, I.A.S. The rejoinder was filed by the petitioners. Another reply affidavit was filed on behalf of the respondents to the rejoinder filed by the petitioners. The reasons for the delay have also been explained in the said affidavit.

G 9. Our attention was also drawn to the order passed by the Government of Tamil Nadu, Commercial Taxes and Registration Department- G.O.(Ms.) H No.30 dt.19.01.2007 regarding refixing the seniority of Tvl.K.Madalaimuthu

and A.Arumuga Nainar in the relevant panels in respect of higher post and G.O.(Ms.)No.31 dt.19.01.2007-promoting Thiru K.Madalaimuthu as Additional Inspector General of Registration (Intelligence) in the office of the Inspector General of Registration. A

10. Our attention was also drawn to G.O.(Ms.)53, Commercial Taxes and Registration Department, dt.17.02.2007 and in particular para 4 at page 171 which reads thus :- B

“4. In exercise of the powers conferred under General Rule 48 of the Tamil Nadu State and Subordinate Services comprised in Part-II, Volume-1 of the Tamil Nadu Services Manual, 1987, the Governor of Tamil Nadu hereby relaxes the Special Rule for the Tamil Nadu Registration Service necessitating two years service in the post of Deputy Inspector General of Registration for promotion to the post of Additional IGR in favour of Thiru A.Arumuga Nainar, so as to be promoted as Additional Inspector General of Registration. Consequently the pay of Thiru A. Arumuga Nainar be fixed under ruling 17 under Fundamental Rule-27.” C D

11. Consequently, the second petitioner Thiru A.Arumuga Nainar was promoted and posted as Additional Inspector General of Registration in the office of the Inspector General of Registration, Chennai. It is thus seen that the Orders passed by this Court have now been fully complied with though belatedly. On the last occasion, learned counsel for the petitioners brought to our notice that no car and the office room has been provided to the petitioners for their official use. Today, when the matter is taken up for hearing, proceedings issued by the Inspector General of Registration, Chennai-28 No.4428/F2/2007 dt.23.02.2007 was placed before us. The said proceedings reads as follows :- E F

“(1) For official use a Bolero Car bearing No.TN 22G 0356 along with a Driver named Thiru Jayaraman is allotted to Additional Inspector General of Registration (Intelligence). The Office Room situated in the southern end in 3rd floor is allotted for his official use. G

(2) For official use a Bolero Car bearing No.TN 07AG 1234 along with a Driver named Thiru Chinnasamy is allotted to Additional Inspector General of Registration (Stamps and Registration). The Office Room situated in the northern end in 3rd floor is allotted for his official use.” H

A 12. The learned senior counsel Mr.Soli J.Sorabjee and Mr. Altaf Ahmad appearing on behalf of the respondents have also informed this Court that the salary and other consequential benefits consequent upon the promotion shall be given to the petitioners in accordance with rules. The statement made by the learned senior counsel is placed on record.

B 13. We have perused the apology tendered by the respondents in their affidavit. The apology appears to be genuine. Since the respondents have purged the contempt and taking a lenient view of the matter and considering their age and future prospects, we dispose of the Contempt Petition by accepting their unconditional apology made in Court and in the affidavits.

C The Contempt Petition is disposed of accordingly. The contempt notice is discharged.

RP.

Contempt Petition disposed of.