

In the High Court of Judicature at Madras

Dated : 27.7.2017

Coram :

The Honourable Mr.Justice NOOTY.RAMAMOHANA RAO

and

The Honourable Mr.Justice M.DHANDAPANI

Writ Petition No.19251 of 2017

S.SivaramanPetitioner

Vs

1.The Registrar General, High Court
of Madras, High Court Building,
Chennai-104.

2.The Principal District Judge,
Villupuram District Court,
Villupuram.

....Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the second respondent to forward the petitioner's appeal dated 22.2.2017 to the first respondent and consequently direct the first respondent to dispose the petitioner's appeal dated 22.2.2017 to pass an order on the petitioner's appeal dated 22.2.2017 within a time that may be fixed by this Court.

For Petitioner : Sri.S.Kanmani

For Respondents : Sri.Haja Mohideen Gisthi

ORDER

(Order of the Court was made by NOOTY.RAMAMOHANA RAO,J)

This writ petition is preferred seeking a Writ of Mandamus directing the second respondent to forward the writ petitioner's appeal dated 22.2.2017 to the first respondent and the first respondent to deal with the said appeal within a quick time thereafter.

2. It appears that the writ petitioner has drawn an appeal against an order imposing the punishment of removal from service and submitted the same directly to the Registrar General of this

Court on 27.2.2017. Unfortunately, the said appeal has not been submitted through the Principal District Judge, Villupuram District, Villupuram, who is the Head of the District Unit. Dealing with the appeal directly submitted to the Registry by the writ petitioner, on 21.3.2017, the High Court, while communicating to the Principal District Judge, Villupuram and marking a copy to the writ petitioner, has pointed out that the appeal has been submitted directly to the High Court of Madras instead of forwarding through proper channel, as mandated by the Tamil Nadu Civil Services (Discipline and Appeal) Rules.

3. We were left wondering as to whether the writ petitioner has submitted any appeal and submitted the same to the Principal District Judge at Villupuram with a request to forward the same to the High Court. Instead, what the writ petitioner did was that he drew a representation dated 30.3.2017 requesting the Principal District Judge, Villupuram to forward the appeal dated 22.2.2017 submitted by him, to the High Court. On the ground that no action has been taken thereon, the above writ petition is instituted.

4. The present case is a classic example as to how proper advice, if not tendered, delays the process of securing justice. Rule 26 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1953, reads as under :

"Every appeal is, thus, required to be addressed to the Competent Appellate Authority and shall be submitted through the Head of the Office, to which, the appellant belongs or belonged and through the Authority from whose order, the appeal is preferred and in the case of members of Subordinate Services through the official channel."

5. The content of this Rule is, no doubt, completely procedural rather than substantive in nature. However, the procedure is designed for purposes of securing early disposal of all such appeals. If every appeal submitted to the Appellate Authority is routed through the proper channel, it becomes easier for the Appellate Authority to secure comments/remarks on the appeal by the Authority, against whose order, the appeal is so preferred. In fact, nothing prevents the Original Authority to make available the comments on the contents of the appeal also simultaneously, to hasten up the disposal of the appeal on merits by the Appellate Authority.

6. Or alternatively, the Original Authority can also forward the entire records, which culminated in passing the order appealed against. That would not only enable the Appellate

Authority to focus its attention on the entire controversy on merits in real quick time, because it will have the benefit of perusing the original record while dealing with the appeal. Therefore, there is any amount of meaning incorporated in prescribing such a procedure. The writ petitioner has not complied with this procedure so far. It is rather unfortunate that he has been advised to rush to this Court by instituting this writ petition instead.

7. However, taking a compassionate view, though the writ petitioner is guilty of not submitting his appeal through proper channel, we direct the Principal District Judge, Villupuram to forward the appeal allegedly drawn by the writ petitioner on 22.2.2017 and forward the same to the Appellate Authority treating it as if it is submitted through proper channel. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1.The Registrar General,
High Court of Madras,
Chennai-104.

2.The Principal District Judge,
Villupuram District Court,
Villupuram.

+ 1 cc to Mr. S. Kanmani, Advocate SR.53143

+ 1 cc to Mr.Haja Mohideen Gisthi, Advocate Sr.53388

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VGI (CO)
EU 22.08.17

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