

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.28626 of 2019

M.Selvaraj

.. Petitioner

-vs-

1.The Secretary to Government,
Municipal Administration and
Water Supply Department,
Fort St. George, Chennai-604 009.

2.The Commissioner of Municipal Administration,
M.R.C.Nagar, Chennai-600 028.

3.The Regional Director of Municipal Administration,
Vellore Zone, Vellore-632 012.

4.The Municipal Commissioner,
Thindivanam Municipality,
Thindivanam-604 001.

5.The Assistant Director of Local Board
Audit Department,
Nandanam, Chennai-35.

.. Respondents

Petition under Article 226 of the Constitution of India
praying for issuance of Writ of Mandamus directing the 1st
respondent to consider the representation of the petitioner
dated 05.11.2018 within the time frame as that may be fixed by
this Court.

For Petitioner : Ms.Annamma.K

For RR1 to 3 : Ms.A.Sri Jayanthi,
Additional Government Pleader

For Respondent-4 : Mr.P.Srinivas, Standing Counsel

O R D E R

This writ petition has been filed by the petitioner for issuance of Writ of Mandamus directing the 1st respondent to consider the petitioner's representation dated 05.11.2018.

2.Heard Ms.Annamma K., learned counsel for the petitioner; Ms.A.Sri Jayanthi, learned Additional Government Pleader for respondents 1 to 3; and Mr.P.Srinivas, learned Standing Counsel for the 4th respondent.

3.With consent, this writ petition is taken up for final disposal.

4.The case of the petitioner is that he entered into Municipal service on 02.07.1973, and his actual date of superannuation was on 31.12.2011. The petitioner rendered 38 years of service in Municipalities. The petitioner served in various municipalities and he lastly worked as Manager at Thindivanam Municipality. The petitioner was issued with suspension order by the 2nd respondent and disciplinary action was initiated under Rule 8(2) of the Tamilnadu Municipal General Service (D&A) Rules, 1970 and was immediately placed under suspension from service until further orders and the period was treated as duty.

5.The further case of the petitioner is that during the period of suspension, he was eligible to be paid subsistence allowance and dearness allowance as admissible in Rule 53(1) of the Fundamental Rules. Since he was placed under suspension, he was not allowed to retire from service on 31.12.2011, i.e. the date of superannuation and retaining him in service till the disciplinary cases pending against him are concluded and final orders are passed. The period of suspension from 31.12.2011 to 31.01.2016 has been treated as duty period. Therefore, the petitioner has to be paid the duty pay for the period of suspension. In this regard, the petitioner sent a representation dated 05.11.2018, to the respondents. Till date, the representation has not been considered. Hence, the present writ petition.

6.The learned counsel appearing for the petitioner would submit that it would suffice, if this Court issues direction to the respondents to consider the petitioner's representation dated 05.11.2018, within a stipulated time frame.

7.The learned Additional Government Pleader would submit that already recovery order has been passed and based on the recovery order, amount has been recovered and without

challenging the recovery order, the petitioner has filed this writ petition, which is unsustainable one.

8.Considering the fact that the petitioner has filed this writ petition without challenging the recovery order, this Court is not inclined to entertain this writ petition. Accordingly, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

abr

To

- 1.The Secretary to Government,
Municipal Administration and
Water Supply Department,
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- 2.The Commissioner of Municipal Administration,
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- 4.The Municipal Commissioner,
Thindivanam Municipality,
Thindivanam-604 001.
- 5.The Assistant Director of Local Board
Audit Department,
Nandanam, Chennai-35.

+1cc to M/s.K.Annamma, Advocate SR.85729
+1cc to the Government Pleader SR.85622

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GP(CO)
CB(21/11/2019)

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