

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2020

CORAM

THE HONOURABLE MR. JUSTICE V. PARTHIBAN

W.P.No.15614 of 2020
and
W.M.P.No.19467 of 2020

N.Rajkumar
Assistant (On removal from Service)
No.32, Thirumaniamman Nagar,
"J"Block, 1st Street, 13th Main Road,
Annanagar,
Chennai - 600 040Petitioner

Vs.

- 1.The Secretary to
Government,
Social Welfare & Nutritious Meal
Programme Department,
Secretariat,
Chennai - 600 009.10.2020
2. The Commissioner of Social Welfare,
Panagal Building, Chennai - 600 015.
3. The Administrative Officer (incharge)
Directorate of Social Welfare & Nutritious
Meal Programme,
Chepauk, Chennai - 5.Respondents.

Prayer: Writ Petition filed under Article 226 of the
Constitution of India praying for issuance of Writ of Mandamus
to direct the first respondent herein to consider the
petitioner's appeal dated 31.08.2020 and pass orders within a
reasonable time prescribed by this Hon'ble Court.

For Petitioner : Mr.R.S.Anandan

For Respondents : Mr.R.A.S.Senthilvel
Additional Government Pleader

O R D E R

The matter is taken up through web hearing.

2. This Writ petition has been filed for issuance of Writ of Mandamus to direct the first respondent herein to consider the petitioner's appeal dated 31.08.2020 and pass orders within a reasonable time.

3. The case of the petitioner is that he was originally appointed as Junior Assistant on compassionate ground in 1986 and subsequently promoted as Assistant. While he was working as Assistant in the respondent Department, he was issued with a charge memorandum dated 11.06.1997 on the allegation that he had obtained employment by suppression of material fact. The petitioner has given his explanation, but an enquiry was conducted and completed as early as on 2001. Thereafter, a fresh charge memorandum was issued on the very same set of facts on 11.11.2010, after a lapse of more than two decades from the date of his appointment. Once again the petitioner gave his explanation on 11.03.2011, but enquiry was ordered into the charges.

4. However, the enquiry was not proceeded with promptly and the Enquiry Officers, came to be changed, over a period of time and after delay of very many years, a report was submitted on 13.12.2019. Thereafter, the petitioner appeared to have submitted his explanation on 11.02.2020. The 2nd respondent, in concurrence with the findings of the enquiry report, holding the charges proved against the petitioner, imposed a penalty of removal from service vide order dated 04.08.2020.

5. The petitioner had preferred a statutory appeal to the first respondent on 31.08.2020. The petitioner also claims to have submitted another representation, subsequently on 09.09.2020, seeking stay of the order of the disciplinary authority removing him from service.

6. While the matter stood thus, without waiting for an order by the first respondent on the appeal, the petitioner has rushed to this Court seeking direction to consider his appeal along with the stay petition dated 31.08.2020 and 09.09.2020 within a reasonable time.

7. Learned counsel appearing for the petitioner reiterated the above facts. However, this Court is not inclined to entertain the writ petition for the simple reason that the appeal itself was preferred only on 31.08.2020 followed by another representation on 09.09.2020. The appellate authority ought to be given reasonable time to decide the appeal and in the meanwhile, the petitioner has simultaneously approached this Court seeking a direction as prayed for.

8. This Court is unable to appreciate as to how the petitioner could approach this Court for issuance of Mandamus when the appeal itself was preferred by him eight weeks before. In the considered opinion of this Court, the petitioner rushing to this Court without any special or specific cause of action is abuse of process of this Court. Therefore, this Court is not inclined to even order notice in this writ petition.

9. Therefore, the Writ Petition stands dismissed as being premature. No costs. Consequently, connected miscellaneous petition is dismissed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Secretary to
Government,
Social Welfare & Nutritious Meal
Programme Department,
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Chennai - 600 009.10.2020
2. The Commissioner of Social Welfare,
Panagal Building, Chennai - 600 015.
3. The Administrative Officer (incharge)
Directorate of Social Welfare & Nutritious
Meal Programme,
Chepauk, Chennai - 5.

+1cc to the Government Pleader SR.35888

W.P.No.15614 of 2020

AD(CO)
CB(10/12/2020)

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