



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.4904 of 2021

WEB COPY

K.P.Kolandai

... Petitioner

-vs-

1. The District Collector,
Dharmapuri District
at Dharmapuri.

2. The Director of Town Panchayats,
Commissionerate of Municipal Administration,
MRC Nagar, Raja Annamalaipuram,
Chennai-28.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to consider the representations dated 07.11.2019 followed by reminder dated 28.12.2020 on the basis of the acquittal made in Crl.A.No.693 of 2008 on the file of High Court, Madras dated 17.09.2008, by setting aside the penalty of dismissal from service as per Fundamental Rules on merits and as per law within a time to be stipulated by this Court.

For Petitioner : Ms.N.R.Jasmine Padma

For Respondents : Mr.P.Karthikeyan,
Additional Government Pleader

O R D E R

This Writ petition is filed, seeking a direction to the respondents to consider the representations dated 07.11.2019 followed by reminder dated 28.12.2020 on the basis of the acquittal made in Crl.A.No.693 of 2008 on the file of High Court, Madras dated 17.09.2008, by setting aside the penalty of dismissal from service as per Fundamental Rules, on merits and as per law within a time to be stipulated by this Court.

2.Mr.P.Karthikeyan, learned Additional Government Pleader takes notice for respondents. By consent, final orders are passed in the Writ Petition at the admissions stage.

3. It is the case of the petitioner that initially he was appointed as Sanitary Maistry on 01.06.1970 and subsequently, promoted as Junior Assistant on 23.02.1983 and his date of superannuation is 31.10.2009. But, before attaining the age of



superannuation, he was removed from service on 12.11.2008 on the basis of a criminal conviction dated 29.08.2008 made in S.C. No.103 of 2004 on the file of the Chief Judicial Magistrate, Krishnagiri. On the basis of the above conviction, the first respondent issued a Show Cause Notice under Rule 17(c)(1)(i) on 16.09.2008 and the petitioner has submitted his reply stating that the sentence has been suspended by the Judgment of this Court made in Crl.A.No.693 of 2008 dated 17.09.2008 and by an order dated 09.08.2019 this Court set aside the conviction and sentence imposed on the petitioner and thereby acquitted the petitioner from all the charges. Therefore, the petitioner made a representation dated 07.11.2019 for setting aside the penalty of dismissal from service. As there was no response from the respondents, the petitioner is before this Court.

4. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation is already pending with the respondents, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the respondents herein to consider the representation preferred by the petitioner dated 07.11.2019, if not already disposed of, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of four months from the date of receipt of a copy of this order;

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the respondents shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representation dated 07.11.2019 and this order, to the respondents forthwith;

v) The respondents are directed to communicate the decision taken on the representation, to the petitioner within a period of 120 days from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send



communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

vum

To

1. The District Collector,
Dharmapuri District
at Dharmapuri.
2. The Director of Town Panchayats,
Commissionerate of Municipal Administration,
MRC Nagar, Raja Annamalaipuram,
Chennai-28.

+1cc to Mr.L.Chandrakumar, Advocate, S.R.No.13024.
+1cc to the Government Pleader, S.R.No.13185.

W.P.No.4904 of 2021

GPL(CO)
CSR 26.03.2021