

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.5847 of 2021
(Heard through VC)

S.K.Murugan

... Petitioner

-vs-

1.The District Collector,
Dharmapuri.

2.The Revenue Divisional Officer,
Dharmapuri.

3.The Tahsildar,
Pennagaram Taluk,
Dharmapuri District.

... Respondents

Prayer: Petition filed under Article 226 of Constitution of India to issue a Writ of Mandamus directing the second respondent herein to forthwith dispose the appeal petition filed on 05.09.2020 against the punishment order imposed in Na.Ka.No.3118/2019(A3) dated 13.08.2020 on the file of the third respondent.

For Petitioner : Mr.R.Selvakumar

For Respondents : Mr.P.V.Selvakumar
Additional Government Pleader

O R D E R

The petitioner has come forward with this writ petition seeking a direction to the second respondent herein to forthwith dispose the appeal petition filed by the petitioner on 05.09.2020 against the punishment order imposed in Na.Ka.No.3118/2019(A3) dated 13.08.2020 by the third respondent.

2. Mr.P.V.Selvakumar, learned Additional Government Pleader takes notice on behalf of the respondents.

3. By consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

4. The case of the petitioner is that he was working as Village Assistant at the office of the Village Administrative Officer, Athimutlu. On 06.12.2019, he was served with a charge memo, wherein four charges were laid against the petitioner. He gave a written explanation on 05.02.2020. In the enquiry conducted by the third respondent, the first charge against the petitioner was not proved. However, the third respondent had found guilty on the 2nd charge and consequently the other charges and imposed a punishment of stoppage of increment for 3 months without cumulative effect on 13.08.2020. Aggrieved by the said order, the petitioner has filed an appeal petition before the second respondent on 05.09.2020. Though he has filed an appeal before six months, the second respondent has not taken up the appeal petition for hearing. Hence, this petition.

5. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's appeal petition is already pending with the second respondents, the writ petition is disposed of with the following directions:

i) A direction is issued to the second respondent herein to consider the appeal preferred by the petitioner dated 05.09.2020, 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 90 days 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 second respondent 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 appeal petition dated 05.09.2020 and this order, to the second respondent forthwith;

v) The second respondent is directed to communicate the decision taken on the appeal, to the petitioner within a period of three weeks 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 III)

//True Copy//

Sub Assistant Registrar

rsi
To

- 1.The District Collector,
Dharmapuri.
- 2.The Revenue Divisional Officer,
Dharmapuri.
- 3.The Tahsildar,
Pennagaram Taluk,
Dharmapuri District.

+1cc to Mr.R.Selvakumar, Advocate Sr.15495
+1cc to the Government Pleader Sr.15399

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srg 29/04/2021