

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.5922 of 2021
and W.M.P.No.6548 of 2021
(Heard through VC)

N.Rajkumar

.. Petitioner

-vs-

- 1.The Secretary to Government,
Social Welfare & Nutritious Meal
Programme Department,
Secretariat,
Chennai- 600 009.
- 2.The Commissioner of Social Welfare,
Panagal Building,
Chennai - 600 015.
- 3.The Administrative Officer (incharge),
Social Welfare & Nutritious Meal Programme,
Directorate, Chepauk,
Chennai - 5.
- 4.The State Commissioner for the
Rehabilitation of the Differently Abled,
Chennai - 5.

.. Respondents

Prayer: Petition filed under Article 226 of Constitution of India to issue a Writ of Mandamus directing the first respondent herein to consider the petitioner's appeal dated 31.08.2020.

For Petitioners : Mr.R.S.Anandan

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

O R D E R

The writ petition has been filed seeking a direction to the first respondent herein to consider the petitioner's appeal dated 31.08.2020.

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 facts of the case is that initially the petitioner was appointed on compassionate grounds and now he was working as Assistant in the respondents-Department. After 11 years of service he was issued with a charge memo dated 11.06.1997 by the third respondent stating that the employment was obtained suppressing the fact that his father was in employment. The enquiry officer was appointed and he completed his enquiry in the year 2001 and no final order was passed and the entire proceedings have been dropped. Again a fresh charge memo was issued by the second respondent with the very same set of facts. Again the petitioner submitted additional explanations on 11.02.2020, but the second respondent vide its proceedings in Se.Mu.Na.Ka.No.3823/Nir.5(3)/2012 dated 04.08.2020 imposed penalty of removal from service. Against the said removal order, the petitioner has preferred an appeal before the first respondent on 31.08.2020. In the meanwhile, he has also filed a writ petition in W.P.No.15614 of 2020 seeking to pass an order on his appeal petition dated 31.08.2020. The writ petition has been dismissed as premature. Thereafter, till date no order has been passed on his appeal petition though more than 6 months has been lapsed. Hence the petitioner has approached this Court.

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 first respondent, the writ petition is disposed of with the following directions:

i) A direction is issued to the first respondent to dispose of the appeal petition preferred by the petitioner dated 31.08.2020, 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 submissions in time, the first 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 31.08.2020 and this order, to the first respondent forthwith;

v) The first 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. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

rsi

To

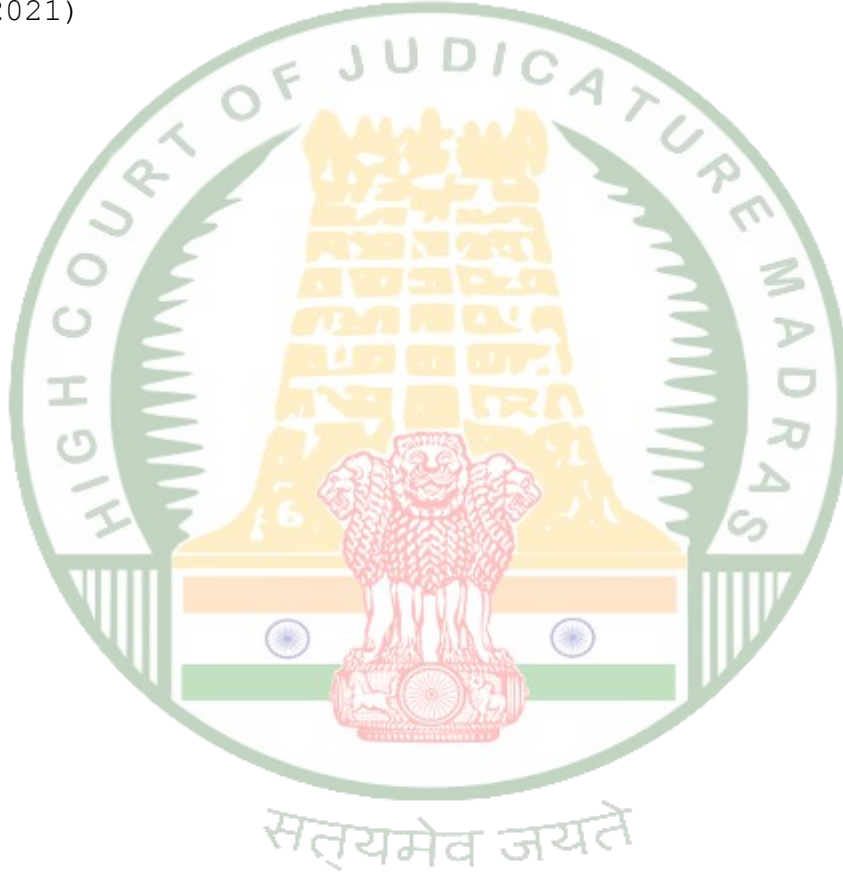
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+1cc to the Government Pleader, S.R.No.15401

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LN(CO)
CB(09/07/2021)



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