

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.5842 of 2021

B.Nagendra Rao

... Petitioner

-vs-

1. The Commissioner
Yanam Municipality
Yanam, UT of Puducherry
2. The Special Officer
Yanam Municipality
Regional Administrator
Yanam, UT of Puducherry
3. The Union Secretary to Government
Vigilance, C.C.D.,
UT of Puducherry.
4. The Director
Local Administration Department
UT of Puducherry.
5. The Deputy Director
D.A.T. Yanam
UT of Puducherry
6. The Bill Section
Yanam Municipality
UT of Puducherry.

... Respondents

Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to dispose the petitioner's representation dated 20.08.2019, 30.12.2019, 03.03.2020 and 29.05.2020 within the time limit fixed by this Court.

For Petitioner	:	Mr.A.Sivakumar Sivaaji
For Respondents	:	Mr.Stalin Abhimanyu Government Advocate (P)

ORDER

This writ petition has been filed, seeking a direction to the respondents to dispose the petitioner's representation dated 20.08.2019, 30.12.2019, 03.03.2020 and 29.05.2020 within the time limit fixed by this Court.

2. Mr.Stalin Abhimanyu, learned Government Advocate (Pondicherry) takes notice for Respondents. By consent of both the parties, this writ petition is taken up for final disposal at the admission stage itself.

3. The case of the petitioner is that he joined in the respondent department as Bill collector on 18.08.1982 and have been working without any blemishes. In the year 2015 one Motupalli Ramakrishnan, initiated a false criminal case against the petitioner in S.T.C.No.116 of 2015 before the Judicial Magistrate, Yanam, Puducherry based on the cheque of Rs.1,00,000/-. The learned Judicial Magistrate convicted the petitioner and sentenced to undergo rigorous imprisonment for one year and to pay a sum of Rs.1,00,000/- to the complainant as compensation. Therefore the petitioner filed an appeal against the judgement in STC.No.116 of 2015 before the II Additional Sessions Judge, Puducherry in C.A.No.8 of 2016. The learned Sessions Judge confirmed the judgment of the trial Court and again the petitioner preferred an appeal before this Court in Crl.R.C.no.1383 of 2018 and the same is pending. Pending revision the petitioner was suspended from service on 05.11.2018 and not received any suspension allowance and attained superannuation on 31.08.2019. since the petitioner did not receive any pension benefits he made a representation to the respondents on 20.08.2019, 31.12.2019, 03.03.2020 and 29.05.2020 requesting to revoke his suspension and given him pension benefits with suspension allowance. The respondents suspended the petitioner for the reason that the he was convicted in a criminal case but failed to note that the dispute arose between the petitioner and one Motupalli Ramarkrishnan is only a financial transaction and it has nothing to do against the State or Government organisation. Hence the suspension order passed by the respondents is against law. Since there was no response from the respondents, the petitioner has approached this Court with the present writ petition.

4. Considering the facts and circumstances of the case and taking into account the fact that the petitioner representation is already pending with the first respondent and if the representation is not already disposed of earlier, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the respondents herein to consider the representations preferred by the petitioner dated 20.08.2019, 30.12.2019, 03.03.2020 and 29.05.2020 if the petitioner is found to be eligible 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 60 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 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 representations dated 20.08.2019, 30.12.2019, 03.03.2020 and 29.05.2020 and this order, to the first respondent forthwith;

v) The respondents are directed to communicate the decision taken on the representations, 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(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner
Yanam Municipality
Yanam, UT of Puducherry
 2. The Special Officer
Yanam Municipality
Regional Administrator
Yanam, UT of Puducherry
 3. The Union Secretary to Government
Vigilance, C.C.D.,
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 5. The Deputy Director
D.A.T. Yanam
UT of Puducherry
 6. The Bill Section
Yanam Municipality
UT of Puducherry.
- +1cc to the Government Pleader, S.R.No.21291

W.P.No.5842 of 2021

VBM(CO)
CS/13/07/2021

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