



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.10.2021

Coram

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

W.A.No.2548 of 2021
and
CMP.No.16584 of 2021

The Executive Officer,
PeriyanaickenPalayam Town Panchayat,
Periyanaickenpalayam,
Coimbatore District.

... Appellant/3rd Respondent

Vs.

1. K.Kumar
Junior Assistant (Retired)
Thondamuthur Town Panchayat,
Coimbatore District.
2. The Commissioner of Town Panchayat,
Kuralagam,
Chennai - 108.
3. The District Collector,
Coimbatore.

... Respondents/Respondents

Prayer: Writ appeal is filed under clause 15 of the Letter Patent praying to allow the writ appeal to set aside the order of the Learned Judge made in W.P.No.12648 of 2007 dated 14.12.2020 and dismiss the writ petition.

Prayer in WP.No.12648 of 2007:-

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records connected in Pro.Na.Ka.No.S2/169219/92 dated 22.7.94 passed by the District Collector, Coimbatore and set aside the same and direct the respondent to sanction increment from 1994 onwards and pay arrears.



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For Appellant : Mr.V.Jayaprakash Narayanan

For Respondents 2 & 3 : Mr.K.V.Sajeev Kumar
(Government Counsel)

JUDGMENT

(Judgement of the Court was made by
S.VAIDYANATHAN, J. & A.A.NAKKIRAN.J)

Instant writ appeal is directed against the order dated 14.12.2020 made in W.P.No.12648 of 2007.

2. Learned counsel for the Appellant submitted that the only ground raised by the employee before the learned Single Judge was that there was a violation of principles of natural justice, as the order has been passed by the District Collector, Coimbatore, without calling for explanation on the enquiry report from the employer which is mandatory. However, the learned single Judge, instead of remanding the matter for fresh consideration, has simply interfered with the punishment in an arbitrary manner.

3. Once there was a violation of principles of natural justice, we are of the view that the learned Single Judge ought to have remanded the matter in terms of the Judgement of the Supreme Court in the case of Union of India and others Vs. Mohd. Ramzan Khan reported in AIR 1991 SC 471 so as to continue the proceedings from where the defect has happened. However, the learned Judge has allowed the writ petition. Unfortunately in the writ appeal, the appellant has not taken that plea also.

4. At this Juncture, it is submitted by Mr.Jayaprakash Narayanan, learned counsel for the appellant that this Court in exercise of its extraordinary Jurisdiction can remand the matter to the authorities for fresh consideration . We are not inclined to do so, when no plea was taken by the appellant in this appeal, as we are not here to supplement the grounds which are not taken by the appellant.

5. In the result, this Writ Appeal is dismissed. No costs.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

dpq



To

1. The Commissioner of Town Panchayat,
Kuralagam,
Chennai - 108.

2. The District Collector,
Coimbatore.

3. The Executive Officer,
PeriyanaickenPalayam Town Panchayat,
Periyanaickenpalayam,
Coimbatore District.

+1cc to M/s.V.Jayaprakash Narayanan, Advocate, S.R.No.52567

+1cc to the Government Pleader, S.R.No.53496

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and
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VG-II(CO)
SU(10/02/2022)