



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2021

CORAM

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

W.A.No.2246 of 2021

P.Babu Amarnath

...Appellant/Petitioner

vs.

1. The Director of Town Panchayat,  
Kuralagam-Chennai 600 108  
Office at MRC Nagar,  
Raja Annamalai Puram,  
Chennai-600 028.

2. The Secretary to Government,  
Municipal Administration  
& Water Supply Department,  
Fort St George, Chennai-600 009.

...Respondents

Writ appeal is filed under clause 15 of the Letter Patent against the order of the learned single Judge dated 14.12.2020 made in W.P.No.1935 of 2014.

Prayer in W.P.No.1935 of 2014: Petition filed under Article 226 of Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in connection with the impugned order passed by him in Na. Ka. No.15878/2007/A5 dated 15.10.07 and confirmed by the 2nd respondent in GO.D. No.476 MA & WS Dept dated 12.9.13 and quash the same and direct the respondents to superannuate the petitioner from service and grant him all consequential service and monetary benefits within a reasonable time.

For Appellant : Mr. K.Venkataramani,  
Senior Counsel  
for Mr.M.Muthappan

For Respondents: Mr.K.V.Sajeev Kumar,  
Government Advocate



## JUDGMENT

(Judgment of the Court was made by S.VAIDYANATHAN, J.)

Instant writ appeal is directed against the order dated 14.12.2020 made in W.P.No.1935 of 2014.

2. The grievance of the petitioner is that the learned single Judge ought not to have remanded the matter to the Appellate Authority, when the Court has held that there is no proper enquiry and that the order of the Appellate Authority is also a non speaking one. Further, no separate finding has been rendered by the Appellate Authority who mechanically confirmed the order of the Disciplinary Authority. As there is no financial loss caused to the respondents in the writ petition and that even though there is a lapse on the part of the writ petitioner, the learned single Judge came to the conclusion based on the materials produced before him that the writ petitioner was not given sufficient opportunity to put forth his defence in the enquiry.

3. Mr.K.Venkataramani, learned Senior Counsel appearing for the appellant submitted that after the orders of the learned single Judge, a representation has been made to the Appellate Authority to consider the request and that the issue is pending before the Appellate Authority. He further submitted that the matter may be adjourned by two weeks and in case, any orders are passed, nothing survives in the writ appeal.

4. The submission made by the learned senior counsel for the appellant cannot be accepted, as having accepted the order of the learned Single Judge, even though writ appeal has been filed, he has given a representation to the Appellate Authority. He cannot be permitted to ride two horses at the same time one by approaching the Appellate Authority for reduction in punishment and keep the matter pending and another by filing the present writ appeal contending that enquiry held to be incorrect, the matter shall go back to the Enquiry Officer for the purpose of proceeding afresh that is to set the clock back prior to the Disciplinary Authority order.

5. We are not inclined to accept the contention of the learned senior counsel appearing for the appellant.

6. At this stage, the learned senior counsel for the appellant submitted that after the orders of the learned single Judge, the Government has sent a communication to the appellant to send a representation, based on which the representation has already been sent. Admittedly, no appeal has been preferred by the respondents/State.



7. In reply, the learned Government Advocate appearing for the respondents would submit that the representation of the appellant is pending before them and that they will take a decision within a period of three weeks from the date of receipt of a copy of the judgment and order shall be passed and decision shall be communicated to the appellant within a period of two weeks thereafter.

8. Recording the statement of the learned Government Advocate appearing for the respondents, the writ appeal is disposed of. No costs.

Sd/-  
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

dpq

To

1. The Director of Town Panchayat,  
Kuralagam-Chennai 600 108  
Office at MRC Nagar,  
Raja Annamalai Puram,  
Chennai-600 028.
2. The Secretary  
Municipal Administration & Water Supply Dept  
Fort St George, Chennai-600 009

+1cc to the Government Pleader, S.R.No.45850

W.A.No.2246 of 2021

PVS (CO)  
RGA (29/11/2021)