



W.P(MD)No.8953 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.04.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.8953 of 2023

P.Pandi

... Petitioner

Vs.

1.The Commissioner,
Municipal Corporation,
Dindigul.

2.The Head Officer,
Appeal Commission,
Dindigul.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the first respondent to consider the representation of the petitioner dated 31.02.2022.

For Petitioner : Mrs.P.Krishnaveni

For Respondents : Mr.Thirunavukkarasu
Standing Counsel

ORDER

Heard the learned counsel appearing for the petitioner and the learned standing counsel appearing for the respondent corporation.



W.P(MD)No.8953 of 2023

2. The petitioner was employed as sweeper in the respondent corporation.

He was unauthorisedly absent from 26.07.2021. The petitioner was issued with charge memo and terminated from service vide order dated 20.06.2022. Without questioning the said termination order, the petitioner has filed this writ petition for consideration of the representation given by him earlier.

3. The learned standing counsel rightly points out that the writ prayer cannot be granted because of passing of the termination order subsequently. I wanted to know if there is any appeal remedy. The learned standing counsel submits that an appeal will lie before the commission headed by chairman, mayor and two members. He would also point out that the appeal filed by the petitioner has also been rejected by the appellate committee. He forwarded the copy of the order passed by the appellate committee. It is seen that the appellate committee has chosen to show the door to the petitioner on the ground of limitation. At this stage, when I indicated that I am inclined to permit the petitioner to file a fresh appeal petition so that it can be considered by the appellate committee on merits, the learned standing counsel sought time to file counter.

4. I must place on record that every contention advanced by the learned



W.P(MD)No.8953 of 2023

standing counsel is absolutely correct and justified. What the petitioner should have done is to challenge the order passed by the appellate committee. Yet, I am inclined to take a indulgent approach in this case for two reasons.

(I) The learned counsel appearing for the petitioner submitted that it is a legal aid brief.

(II) The petitioner was employed as sweeper.

Instead of relegating the petitioner to file a fresh writ petition, I grant liberty to the petitioner to file an appeal before the appellate committee. If the appeal is filed within four weeks from the date of receipt of a copy of this order, the appellate committee shall entertain the same without reference to limitation. I make it clear that I have not gone into the merits of the matter. I must also place on record the submission of the learned standing counsel that the petitioner appears to be an incorrigible character and that even though the present termination order was passed on account of his unauthorized absence from 26.07.2021, earlier he was unauthorizedly absented for a very long spell of 2125 days. It is for the appellate committee to take a call on merits. I am only directing the appellate committee not to put limitation against the petitioner. This benefit will stand vacated, if the petitioner fails to file the appeal within four weeks from the date of receipt of a copy of this order. It is open to the appellate committee to pass any order it deems fit.



W.P(MD)No.8953 of 2023

G.R.SWAMINATHAN, J.

rmi

5. The Writ Petition is disposed of accordingly. No costs.

19.04.2023

Index : Yes / No
Internet : Yes/ No
rmi

W.P(MD)No.8953 of 2023

19.04.2023