

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.04.2015

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THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

W.P.No.10075 OF 2015 &
M.P.Nos.1 & 2 of 2015

T.Selvaraja

.. Petitioner

Versus

1.The State of Tamil Nadu
rep. By its Principal Secretary to Government
Home Department
Fort St.George, Chennai 600 009.

3.The Director
Tamil Nadu Fire & Rescue Services
No.1, Greams Road, Chennai 600 006. .. Respondents

Writ petition is filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus to call for the records of the first respondent in relation to the proceedings in Home (Police-XVII) Department G.O.Ms.No.323 dt 20.05.2013, and the consequential order in Letter No.60283/pol-17/2014-5 dated 02.03.2015 of the first respondent and quash the same and consequently direct the respondents to reinstate the petitioner in service with all consequential benefits.

For Petitioner : Mr.S.D.Venkateswaran

For Respondents : Mr.K.V.Dhanapalan
Addl.Govt. Pleader

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O R D E R

With the consent of the learned counsel appearing on either side, the Writ Petition is taken up for final disposal at the admission stage itself.

2.The petitioner was working as Divisional Officer in Kanyakumari Division in Fire & Rescue Services. The Government issued G.O.Ms.No.323 Home (Police-XVII) Department dated 20.05.2014 under Rule 17(e)(2) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, placing the petitioner under suspension. The reason for suspension is that a case registered against the petitioner in respect of a criminal offence for demand and acceptance of bribe of Rs.30,000/- as bribe from one Thiru A.Arokkiaraj, for issuance of 'No Objection Certificate' is under investigation.

3.The petitioner approached this Court by filing W.P.No. 30077 of 2013, to consider his representation dated 28.06.2013, to revoke the order of suspension imposed on him. This Court disposed of the said Writ Petition by an order 06.11.2013, directing the Government to consider the petitioner's representation dated 28.06.2013 and pass orders on merits and as per law, within a period of eight weeks. Since no order was passed, the petitioner filed another Writ Petition in W.P.No.23192 of 2014 to quash the suspension order issued in G.O.Ms.No. 323 dated 20.5.2013, as stated above. At the time of hearing of that Writ Petition, a request was made by the learned counsel for the petitioner to dispose of the representation submitted by the petitioner dated 02.07.2014. Accordingly, this Court disposed of W.P.No.23192 of 2014, on 11.09.2014, directing the Government to pass orders on the representation of the petitioner dated 02.07.2014. Now two orders have been passed by the first respondent dated 02.05.2014 and 02.03.2015, in the said circumstances refusing to revoke the suspension, which are impugned in this Writ Petition.

4.Now it is stated by the learned counsel appearing for the petitioner that after investigation, a charge sheet has been laid before the Chief Judicial Magistrate, Nagercoil, for the offence under section 7 and 13(2) r/w 13(1)(D) of Prevention of Corruption Act, 1988.

5.I have considered the submissions made by the learned counsel appearing for the petitioner.

6.The petitioner was placed under suspension on a grave charge of demanding and accepting bribe and a case was registered under Prevention of Corruption Act and after completing the investigation a charge sheet has also been laid before the Chief Judicial Magistrate and in such circumstances the Government though it fit not to revoke the suspension. In fact, the Hon'ble Division Bench of this Court in the case of THE CHAIRMAN, TNEB & ANOTHER v. S.VENKATESAN [(2014) 5 MLJ 769], after analysing all the judgments on this point, refused to interfere with the decision of the authorities in refusing to revoke the suspension, more particularly in the case relating to corruption charges. At this stage it would be appropriate to extract the relevant portion of the judgment, which reads as follows:

25. The case of the petitioner is one of deemed suspension and merely because criminal prosecution is keeping prolonged and that the first respondent/writ petitioner is also kept under suspension for over 5 years, cannot be a ground to revoke the order of suspension with an consequential order of reinstatement. The cases referred to by the learned counsel appearing for the first respondent/writ petitioner would disclose that in some cases pursuant to the Court orders and orders of acquittal passed by the Criminal Court, orders of suspension have been revoked and in some cases, based on the recommendation made by the Chief Vigilance Officer, ADGP-Vigilance attached to TANGEDCO, orders of suspension have been revoked and each case depends upon its own facts and circumstances and in cases involving bribery and moral

turpitude, there cannot be any uniform guideline especially with regard to revoking the orders of suspension.

8.In view of the above, the Writ Petition fails and the same is dismissed. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-
Deputy Registrar

True Copy

Sub Assistant Registrar

To

1.The State of Tamil Nadu
rep. By its Principal Secretary to Government
Home Department
Fort St.George, Chennai 600 009.

3.The Director
Tamil Nadu Fire & Rescue Services
No.1, Greams Road, Chennai 600 006.

+1 cc to Mr.S.D.Venkateswaran, Advocate,SR.19434.

+1 cc to Government Pleader,SR.19675.

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krd 29/4

W.P.No.10075 OF 2015

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