

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2015

CORAM :

THE HON'BLE MR.JUSTICE D.HARIPARANTHAMAN

Writ Petition No.11887 of 2015
and
M.P.Nos.1 and 2 of 2015

J.Sampath

... Petitioner

Vs.

1. The District Collector,
Kancheepuram District.
Kancheepuram.
2. The Principal Commissioner and
Commissioner of Revenue Administration,
Chepauk, Chennai - 5.

... Respondents

Prayer : Writ Petition, filed under Article 226 of the Constitution of India seeking for issuance of Writ of Certiorarified Mandamus, to call for records of the first respondent in connection with the impugned orders passed by him in R.C.A3/15223/2011, dated 30.05.2011 and R.C.No.15223/2011/A.3, dated 28.03.2014 and to quash the same and to direct the respondents to reinstate the petitioner into service and to grant him all consequential service and monetary benefits.

For Petitioner : Mr. T.Ayngaraprabhu .

For Respondents : Mr.V.Jayaprakash Narayanan
Special Government Pleader

ORDER

Mr.V.Jayaprakash Narayanan, learned Special Government Pleader, accepts notice for respondents. By consent, the Writ Petition is taken up for final disposal, at the stage of admission itself.

2. This Writ Petition is filed, challenging the i) suspension order dated 30.05.2011, and ii) order, dated 28.03.2014, whereby, the petitioner's representation, dated 18.03.2013, made for revocation of the suspension order and to reinstate him in service was rejected by the first respondent, and consequently, to direct the respondents to

reinstate the petitioner in service and to grant him all service and monetary benefits.

3. The facts of the case in a nutshell are as follows:-

i) The petitioner joined the services of the Revenue Department as a Typist in the year 1979. After regularization of service, he was promoted as Junior Assistant in the year 1984, Assistant in the year 1986, Deputy Tahsildar in the year 2004 and as Tahsildar in the year 2008.

ii) When the petitioner was serving in the post as Tahsildar, a fictitious complaint came to be lodged against him by one Raja/de facto complainant, alleging that the petitioner demanded illegal gratification of Rs.10,000/- for sending a reply letter to the CMDA with sketch showing the existence of road in S.No.75/12J in Mugalivakkam Village, where, the complainant has proposed to construct multi-storied building. Based on the said complaint, the petitioner was trapped and arrested on 26.05.2011, at 19.00 hours by the Vigilance and Anti Corruption Officials for demanding and accepting Rs.10,000/- as bribe. Pertaining to the said offence, criminal proceedings has been initiated against the petitioner. Owing to the said criminal case, the first respondent, by order dated 30.05.2011, suspended the petitioner from service.

iii) Seeking to review the order of suspension, the petitioner made a representation, dated 16.07.2011, to the first respondent. Since he was not favoured with any response, he filed W.P.No.29721 of 2011, to quash the suspension order. The said Writ Petition was disposed of by this Court, by order, dated 23.12.2011, directing the respondent/District Collector, to consider and pass orders on the petitioner's representation within a period of eight weeks. But, no order has been passed with regard to the petitioner's representation, dated 16.07.2011, in compliance of the said order, dated 23.12.2011, passed in W.P.No.29721 of 2011. In the interregnum period, charge sheet has been laid against the petitioner, and the same has been taken cognizance by the learned Chief Judicial Magistrate, Chengalpet, and assigned Spl.C.C.No.14 of 2012. But, till date, there is no progress in the trial.

iv) Since the petitioner has been placed under suspension for a prolonged period, he made another representation, dated 18.03.2013, seeking for revocation of the suspension order and to reinstate him in service. Even the latter representation, dated 18.03.2013, evoked no response. Hence, the petitioner filed W.P.No.35086 of 2013, to quash the suspension order, dated 30.05.2011. This Court, disposed of the said Writ Petition, by order, dated 06.01.2014, directing the petitioner to furnish fresh copy of the representation, dated 18.03.2013, along with copy of that order to the respondent therein for revocation of the suspension order, in the light of the common

order, dated 02.07.2012 passed by this Court in W.P.No.29195 of 2010 etc., batch, as in the said case, this Court, considered the delay in disposal of the criminal case and quashed the suspension order passed against the petitioners therein and the respondent were also directed to give placements to them in a far off places in a non-sensitive posts. As per the order, dated 06.01.2014, passed in W.P.No.35086 of 2013, the petitioner submitted fresh representation. The respondent, without considering the representation, dated 18.03.2013, in the light of the order passed by this Court in W.P.No.29195 of 2010, rejected the request of the petitioner, by order, dated 28.03.2014. Challenging the said order, dated 28.03.2014, as well as the suspension order, dated 30.05.2011, the present Writ Petition is filed, as stated supra. According to the petitioner he is under suspension for the past 3 years and 10 months, and though it is a prolonged suspension, the guidelines given in Writ Petition No.29195 of 2010, in the case of G.Mathivannan Vs. Director of Municipal Administration, Chepauk, were not considered.

4. Heard the submissions made on either side.

5. According to me, this Court would not interfere with the suspension order in view of the recent judgment rendered by the Hon'ble Division Bench of this Court, reported in (2014) 5 MLJ 769 in the matter of (Chennai, T.N. Electricity Board, Chennai and another Vs. S.Vekatasan and another). The Division Bench, considered the very same issue, as involved herein, and following the judgement reported in A.I.R. (2000) SC 870 in the matter of (State of M.P. and others Vs. Ram Singh) held that, merely because, criminal prosecution is prolonged, that cannot be a ground to revoke the suspension order. The Division Bench also upheld the judgment, dated 05.10.2010, rendered by the learned Single Judge in W.P.No.12590 of 2009, wherein, the learned Single Judge considered both the judgments of Hon'ble Supreme Court and intra Court's judgements and observed as follows: -

" 88. The order of suspension for a misconduct, involving moral turpitude, in the instant case, alleged act of corruption and the further order, refusing to revoke the order of suspension, both being discretionary and administrative in nature, should not ordinarily be interfered with by the High Court under Article 226 of the Constitution of India. Allowing a person charged with serious acts of corruption or any other misconduct, involving moral turpitude, to discharge his duties and enjoy the fruits of the post, would be against a public policy and it would not be in public interest or to maintain a clean and effective administration.

89. Cases involving serious charges of corruption and misappropriation of money, certainly involve moral turpitude, where there is implied depravity and villiness of character. As rightly observed by the Supreme Court, by allowing a government servant, facing serious charges of corruption or misappropriation or embezzlement, etc., to be retained in service, public interest would be affected. Allowing such persons to be retained in service, in my view, would give a signal to the erring government servants that if the trial is not taken up, for sometime, then the order of suspension would be revoked automatically. A person charged with a serious offence of corruption, for which, punishment may even extend to 10 years, cannot at any stretch of imagination, be inducted or retained in the department, pending disposal of the trial, as the very conduct, reputation of the person is questionable.

90. In the case on hand, powers exercised in good faith and for legitimate reasons in public interest and social interest and to effectuate the purpose for which it is conferred on the authorities, cannot be said to have been exercised arbitrarily. Courts being the custodian of law should not interfere with the orders of suspension, in the case of corruption, embezzlement or misappropriation of government money and retention of such persons would pollute and contaminate the department. The effect of retention of such persons in service, pending trial would demoralise the other government servants, frustrate the object of Prevention of Corruption Act. Therefore, the action of the respondent, in keeping such government servant away from the sphere of his activities, no matter whether the trial is prolonged for a considerable time, cannot clothe any right to seek for retention in service. Though Courts are designated exclusively for the purpose of dealing with corruption cases, for so many reasons, sometimes not bona fide, they are delayed. No doubt, pendency of the trial for an offence under the Prevention of Corruption Act, causes agony and humiliation, but it is always open to the government servant to approach the Court, seeking for early disposal of the trial.

91. It is the responsibility of the appointing/disciplinary, authority/government to take into consideration that other employees/servants of the department are not demoralised and restoring the services of such person, in service, would be certainly deleterious to the efficiency of others. Powers exercised by the appointing/disciplinary authority in rejecting the request, cannot be said to be arbitrary. The appointing/disciplinary authority/government has to maintain honesty, good conduct, efficiency in administration and to keep away persons, facing serious charges."

6. Thus, in the light of the judgment rendered in Chennai, T.N. Electricity Board, Chennai and another Vs. S.Vekatasan and another, referred to supra, the Writ Petition is dismissed. No costs. Consequently, connected M.Ps are closed.

sd

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The District Collector,
Kancheepuram District.
Kancheepuram.
2. The Principal Commissioner and
Commissioner of Revenue Administration,
Chepauk, Chennai - 5.

+ 1 cc to Mr.M.Muthappan, Advocate SR 22199

+ 1 cc to Government Pleader SR 22515

kv(co)
prk3/6

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