

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.No.18183 of 2015

and M.P.No.1 of 2015

R.Maheswaran

... Petitioner

-Versus-

The Chief Secretary to Government of
Tamil Nadu,
Public (Special A) Department,
Fort St. George,
Chennai 600 009.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India for the relief of issuance of Writ of Certiorarified Mandamus calling for the records in connection with the impugned order passed by the respondent in Letter No.100/2012-12 Public (Special A) dated 27.03.2015 and to quash the same and consequently, direct the respondent to reinstate the petitioner into service and grant him all consequential service and monetary benefits.

For petitioner : Mr.K.Venkatramani,
Senior Counsel for
Mr.R.Subramanian

For Respondent : Mr.S.Gunasekaran, GA

ORDER

The petitioner is a Deputy Collector. During 2011-2012, he was posted as Senior Regional Manager, TASMAR, Coimbatore. While he was working so, on 10.01.2012, a criminal case in Crime No.1/2012/AC/CB was registered against him for the alleged offences under Sections 7, 13(2) r/w 13(i)(ii) of the Prevention of Corruption Act. It is stated by the petitioner that based on the above, he was placed under suspension by the Government by order in G.O.(2D) No.13 Public (Special A) Department dated 13.01.2012.

2. It is further stated by the petitioner that now a charge sheet has been laid by the police against the petitioner for offences under Sections 7, 13(2) r/w 13(1)(a)(d) of the Prevention of Corruption Act, 1988 and the learned Special Judge, Special Court for Cases under the Prevention of Corruption Act, Coimbatore, has taken cognizance of the same in Spl. C.C.No.3 of 2014. Though cognizance has been taken on 12.03.2014, so far no charges have been framed against the petitioner. In these circumstances, he had submitted a representation to the respondent to review the order of suspension, but there was no response.

3. Hence, he challenged the order of suspension before this Court in W.P.No.14398 of 2014 and this court by order dated 25.11.2014 disposed of the said writ petition with a direction to consider the representation of the petitioner dated 06.04.2013 on merits and in accordance with law within a period of four weeks from the date of receipt of copy of the order.

4. Thereafter, the respondent by the order dated 19.12.2014 rejected the representation of the petitioner.

5. Challenging the above said order, he has filed a writ petition in W.P.No.5586 of 2015 before this court and the same is still pending.

6. While so, he again made a representation dated 23.01.2015 requesting the respondent to review the order of suspension in the light of the G.O.Ms.No.40, P & AR Department dated 30.01.1996 which was also rejected by the respondent on 27.03.2015.

7. Hence, the petitioner is now before this court with this writ petition seeking to quash the above said order dated 27.03.2015 and to direct the respondent to reinstate him in service and grant him all consequential service and monetary benefits.

8. Heard both sides.

9. The learned senior counsel placed heavy reliance on G.O.Ms.No.40, Personnel & Administrative Reforms (N) Department, dated 30.01.1996. In my view, G.O.Ms.No.40, has no use to the petitioner, as the said G.O.Ms.No.40 nowhere states that even in a criminal case where the Government servant is facing corruption charges, could seek to restore him to duty.

10. It is also useful to extract the following passage in the judgement of the Division Bench of this court in the Chairman, TNEB and another v. S.Venkatesan, [(2014) 5 MLJ 769] as hereunder:-

"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."

11. In view of the same, I am not inclined to interfere with the impugned order. Accordingly, the writ petition fails and the same is dismissed. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Chief Secretary to Govt. of Tamil Nadu, Public (Special A) Department, Fort St. George, Chennai 600 009.

+1 cc to the Government Pleader sr.31278

+1 cc to M/S.I.Abrar Md.Abdullah Advocate sr.30842

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