

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2015

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.27653 of 2015 and
M.P.Nos.1 and 2 of 2015

Selvaraj

...Petitioner

-Vs-

1 The Deputy Inspector of
General Salem Salem District

2 The District Superintendent
of Police Namakkal District District
Police Office Namakkal.Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the Impugned order made in No. D.O.No. 522/2008/C.No. G2/7703/2007 dated 21.7.2008 passed by the Second Respondent herein and Quash the same as illegal and Direct the Respondents to allowing the Retirement of the petitioner based on the Acquittal of the Criminal case.

For Petitioner : Mr.K.Nagarajan

For Respondents: Mr. R.Vijayakumar AGP

O R D E R

By consent, this Writ Petition is taken up for final disposal.

2. The petitioner while working as Head Constable was involved in a criminal case registered by Namakkal District Crime Branch in Cr.No.4 of 2004 for alleged commission of offences under Sections 120 (b), 203, 219, 465, 471, 109, 419 IPC u/s. 420 r/w 511 r/w 120 IPC. The petitioner was placed under suspension on 21.7.2008. The said criminal case after investigation has culminated into a charge sheet which was taken on file of Judicial Magistrate, Rasipuram in C.C.No.31 of 2006 and after the completion of trial, the petitioner and other accused were acquitted on 28.3.2014 and according to the petitioner, no appeal against the order of acquittal has been filed and it has become final.

3. The grievance expressed by the petitioner is that inspite of

the order of acquittal, the order of suspension passed against him on 21.07.2008 is yet to be revoked and thereby, permitting the petitioner to retire and in this regard, he has submitted a representation dated 03.04.2014 to the respondent and since no orders have been passed, came forward to file this writ petition.

4. Heard the submissions of the learned counsel for the petitioner and Mr.R.Vijayakumar, learned Additional Government Pleader, who accepts notice on behalf of R1 and R2.

5. The Hon'ble Supreme Court of India in the decision reported in 2015(3)CTC 119 in Ajay Kumar Choudhary Vs. Union of India has considered the time limit for period of suspension and held as follows:

"14. We, therefore, direct that the currency of a Suspension Order should not extend beyond three months if within this period the Memorandum of Charges/Chargesheet is not served on the delinquent officer/employee; if the Memorandum of Charges/Chargesheet is served a reasoned order must be passed for the extension of the suspension. As in the case in hand, the Government is free to transfer the concerned person to any Department in any of its offices within or outside the State so as to sever any local or personal contact that he may have and which he may misuse for obstructing the investigation against him. The Government may also prohibit him from contacting any person, or handling records and documents till the stage of his having to prepare his defence. We think this will adequately safeguard the universally recognized principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognize that previous Constitution Benches have been reluctant to quash proceedings on the grounds of delay, and to set time limits to their duration. However, the imposition of a limit on the period of suspension has not been discussed in prior case law, and would not be contrary to the interests of justice. Furthermore, the direction of the Central Vigilance Commission that pending a criminal investigation departmental proceedings are to be held in abeyance stands superseded in view of the stand adopted by us."

6. This Court in the light of the facts and circumstances,

permits the petitioner to submit one more representation by enclosing a copy of the order as well as earlier representation dated 03.04.2014 to respondents 1 and 2 within a period of three weeks from the date of receipt of a copy of this order and on receipt of the same, the second respondent is directed to consider and dispose of the representation of the petitioner on merits and in accordance with law within a period of eight weeks thereafter, and communicate the decision taken, to the petitioner.

7. This Writ Petition is disposed of accordingly. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

- 1 The Deputy Inspector of
General Salem Salem District
- 2 The District Superintendent
of Police Namakkal District District
Police Office Namakkal.

+1cc to Mr.K. Nagarajan, Advocate, S.R.No.47444

+1cc to the Government Pleader, S.R.No.48106

AK(CO)
EU(24/09/2015)

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