

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2015

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.27831 of 2015 &
M.P.No.1 of 2015

V. Krishnaswamy

... Petitioner

v.

1 The Director General of Police
Police Head Quarters
Kamaraj Salai
Mylapore Chennai-4

2 The Deputy Inspector General of Police
Vellore Range
Vellore District - 632 001

3 The Superintendent of Police
Office of Superintendent of Police
Thiruvannamalai District

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for records from the file of the 3rd respondent impugned order dated 13/03/2015 in Na.Ka. No. H.1/23798/2014 and consequentially suspension order issued by the 2nd respondent in C. No. B1/11142/2014 R.O. 283/2014, dated 31/08/2014 and quash the same and directing the 2nd respondent to reinstate the Petitioner into service.

For Petitioner : Mr.S.Silambu Selvan

For Respondents: Mr.V.Subbiah,
Spl. Govt. Pleader

O R D E R

By consent, the writ petition is taken up for final disposal.

2. The petitioner was working as Special Sub Inspector of

Police in Vettavalam Police Station, Tiruvannamalai District and was arrayed as 2nd accused in Crime No.5 of 2014 registered by Vigilance and Anti Corruption Unit, Tiruvannamalai for the alleged crime of offence under sections 7 & 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 on the ground that on 29.08.2014, at about 1600 hours, he along with 1st accused, viz., Srinivasan, has demanded and accepted illegal ratification of Rs.10,000/- other than the legal remuneration. The petitioner was also arrested and he was placed under suspension on 31.08.2014.

3. The petitioner, in this regard, has also submitted a representation dated 28.02.2015 for revocation of the suspension order and it was rejected by the 2nd respondent vide impugned order dated 13.03.2015 on the ground that criminal case is pending. The petitioner, challenging the order of suspension 31.08.2014 as well as the impugned order dated 13.03.2015, came forward to file this writ petition.

4. Mr.Mr.S.Silambu Selvan, learned counsel appearing for the petitioner, drawn attention of this of this court to the judgment of the Hon'ble Supreme Court reported in 2015(3) CTC 119 (Ajay Kumar Choudhary v. Union of India and others) and would submit that in the above said judgment prolonged suspension of employment was deprecated and appropriate directions were issued to revoke the order of suspension and in the light of the same, prays for setting aside the impugned orders.

5. Per contra, Mr.V.Subbiah, learned Special Government Pleader, who accepts notice on behalf of respondents, would submit that the petitioner along with 1st accused Inspector of Police, involved in a crime and demanded illegal ratification of Rs.10,000/- and they were rightly placed under suspension and that investigation is also pending in criminal stage and hence, prays for dismissal of the writ petition.

6. This court carefully considered the rival submissions made by the learned counsel on either side and also perused the materials placed on record.

7. It is relevant to extract paragraph No.14 of the Hon'ble Supreme Court judgment reported in 2015(3) CTC 119 (cited supra), which reads 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/charge-sheet is not served on the delinquent officer/employee; if the memorandum of charges/charge-sheet 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

person concerned 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 recognised principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognise that the 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."

8. Though the petitioner prayed for a larger relief, this Court, in the light of the facts and circumstances and without going into the merits of the case, directs the 3rd respondent to revoke the order of suspension in the light of the judgment rendered by the Hon'ble Supreme Court reported in 2015(3) CTC 119 (cited supra) and pass orders, on merits and in accordance with law, within a period of eight weeks thereafter and communicate the decision taken, to the petitioner.

This Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CS III)

/true copy/
सत्यमेव जयते

Sub Asst. Registrar

Rj

To

- 1 The Director General of Police
Police Head Quarters
Kamaraj Salai
Mylapore Chennai-4

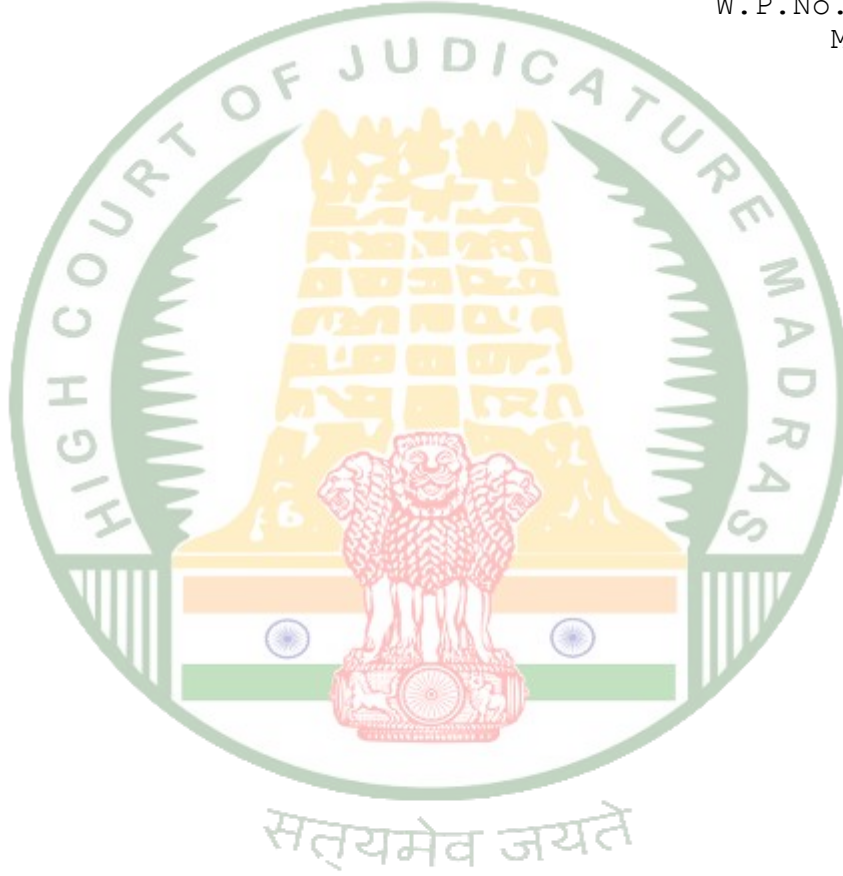
2 The Deputy Inspector General of Police
Vellore Range
Vellore District - 632 001

3 The Superintendent of Police
Office of Superintendent of Police
Thiruvannalmalai District

+1 cc to Mr.S.Silambu Selvan, Advocate, sr.48348
+1 cc to Government Pleader, sr.48281

W.P.No.27831 of 2015 &
M.P.No.1 of 2015

sr co
kra 18/09



WEB COPY