

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 14.9.2015.

CORAM

THE HON'BLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.28851 of 2015
and
M.P.Nos.1 and 2 of 2015

P.Amalraj
Petitioner

Vs

- 1 The Deputy General Manager
State Bank of India
Commercial Branch
232 NSC Bose Road Chennai-600 001.
- 2 The Asst. General Manager & COO
State Bank of India
Commercial Branch
232 NSC Bose Road Chennai-600 001.
- 3 The Commissioner of Police
Greater Chennai Vepery
Chennai-600 007.
- 4 The Inspector of Police(Crime)
G2-Periamed Police Station
Periamet Chennai-600 003.

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records in connection with the order CB/CHE/A&A/243 dated 21.07.2015 passed by the 1st respondent herein, quash the same and consequently direct the 1st and 2nd respondents herein to reinstate the petitioner into service.

For Petitioner : Dr.R.Sampathkumar

For RR1 and 2 : Mr.P.D.Aadikesavalu

For RR3 and 4 : Mr.V.Subbiah, Special Govt. Pleader

ORDER

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

2. The petitioner is working as Head General Attendant in State Bank of India. He was also undertaking painting contract and therefore, went to the house of one Tmt.Nirmala for the purpose of the said work and with regard to the alleged theft that took place in the house of Tmt.Nirmala, as alleged in the complaint, on the file of G2 Periamet Police Station, a criminal case was filed in Crime No.657/2015 by the said police for the commission of offence under section 380 of the Indian Penal Code and the petitioner was also arrested and subsequently enlarged on bail on 8.4.2015. The second respondent, on account of arrest and incarceration of the petitioner, has placed him under deemed suspension on 16.4.2015. The grievance now expressed by the petitioner is that on account of prolonged suspension, he and his family are suffering very much. He further expressed the grievance that subsistence allowance is not yet paid to him. In this regard, the petitioner had submitted representations to respondents 1 and 2 on 14.7.2015 seeking reinstatement and having failed to get a favourable response, came forward with the present writ petition.

3. Heard Dr.R.Sampathkumar, learned counsel for the petitioner and Mr.P.D.Aadikesavalu, who accepts notices and Mr.V.Subbiah, learned Special Government Pleader, who accepts notice for respondents 3 and 4. The learned Standing counsel appearing for respondents 1 and 2 would submit that since the petitioner is placed under deemed suspension, unless and until the criminal prosecution is completed, the petitioner is not entitled for review as matter of course. He would further submit that the petitioner is entitled to subsistence allowance and therefore, he would be paid accordingly.

4. The learned Special Government Pleader appearing for respondents 3 and 4 would submit that investigation is still pending.

5. The Honourable Supreme Court, in AJAY KUMAR CHOUDHARY (2015 (3) CTC 119), dealt with the prolonged suspension of the employee and observed as follows:-

"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 office/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 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. Though the petitioner prayed for a larger relief, in view of the facts and circumstances, without going into the merits projected by the petitioner, this court directs respondents 1 and 2 to consider the petitioner's representation dated 14.7.2015, in accordance with law, and pass orders within a period of four weeks from the date of receipt of copy of this order. The writ petition is disposed of. No costs. The connected miscellaneous petitions are closed.

ssk

s/d-
Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

To

- 1 The Deputy General Manager
State Bank of India
Commercial Branch
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- 2 The Asst. General Manager & COO
State Bank of India
Commercial Branch
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- 3 The Commissioner of Police
Greater Chennai Vepery
Chennai-600 007.
- 4 The Inspector of Police(Crime)
G2-Periamed Police Station
Periamet Chennai-600 003.

+ 1 cc to Mr.R.Sampath Kumar, Advocate SR 50030
+ 1 cc to M/s.P.D.Audikesavalu, Advocate SR 50130
+ 1 cc to the Govt.Pleader SR 50271

gp(co)
prk22/9

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