

In the High Court of Judicature at Madras

Dated: 25.09.2015

Coram

The Honourable Mr.JUSTICE M.SATHYANARAYANAN

Writ Petition No.30308 of 2015
& M.P.Nos.1 and 2 of 2015

V.Parankusan

.... Petitioner

Vs.

1. The Director,
Adi Dravidar Welfare Department,
Chepauk, Chennai - 600 005.
2. The District Collector,
Kanchipuram District,
At Kanchipuram.
3. The District Adi Dravidar and
Tribal Welfare Officer,
Kanchipuram,
Kanchipuram District.
4. The Special Tahsildar,
Adi Dravidar Welfare,
Kanchipuram District.

.... Respondents

PETITION under Article 226 of The Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records relevant to the order in Na.Ka.No.14434/2015/J4 dated 11.09.2015 passed by the 2nd respondent and quash the same as illegal, improper against the natural justice and thereby direct the respondents to reinstate the petitioner into service with effect from 22.06.2015 and pay back all service benefits to him immediately.

For Petitioner : Mr.M.V.Muralidaran

For Respondents : Mr.R.Vijayakumar, AGP

O R D E R

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

2. The petitioner was appointed as Secondary Grade Teacher on 29.11.1999 in Government Adi Dravidar Welfare Boys Higher Secondary School, Arakkonam and according to him, on 20.2.2015, one Vijayaragavan and others have lodged a false complaint against the petitioner and other villagers on the instigation of other persons, who were illegally quarrying the sand in the rivers. Subsequently, the defacto complainant came to withdraw the complaint and also given an undertaking on 13.3.2015. The petitioner was placed under suspension on 22.6.2015 by the third respondent and the petitioner has submitted a representation dated 06.07.2015 to revoke the order of suspension. Since it has not been considered, he has filed W.P.No.24549 of 2015 and pending disposal of the same, filed M.P.No.1 of 2015 to stay the order of suspension. This Court on 10.08.2015 passed a detailed order ordering notice of motion returnable by 25.09.2015 and pending disposal of the Writ Petition, directed the second respondent therein, namely, The District Collector, Kanchipuram District to consider the representation submitted by the petitioner seeking to review/revoke the order of suspension and pass orders on or before 23.9.2015 and communicate the decision taken to the petitioner. The District Collector, Kanchipuram District, pursuant to the above directions, has passed the impugned order rejecting the request made by the petitioner to review the order stating among other things that five criminal cases have been registered against him; he has also involved in all cases and he has obtained anticipatory bail and the situation is not conducive to reinstate him in service. Challenging the legality of the said order, the petitioner came forward to file this Writ Petition.

3. Mr.M.V.Muralidaran, learned counsel appearing for the petitioner has drawn the attention to the decision rendered by the Honourable Supreme Court reported in [2015] 3 CTS 119 SC [Ajay Kumar Choudhary Vs. Union of India and others] and would submit that the suspension cannot be a prolonged one and in any event, the currency of the suspension order should not extend the period of three months, if within this period the Memorandum of Charges/Charge sheet is not served on the delinquent officer/employee.

4. Per contra, Mr.R.Vijayakumar, learned Additional Government Pleader, who accepts notice on behalf of the respondents would submit that admittedly the petitioner is arrayed as accused in five cases registered against him and he has also obtained orders of anticipatory bail and therefore, the second respondent has rightly reached the conclusion that it is not a fit case to revoke/review the order of suspension and prays for dismissal of the Writ Petition.

5. This Court has considered the rival submissions of both sides and perused the materials placed before this Court.

6. It is relevant to extract paragraph 14 of Ajay Kumar Choudhary's case [cited supra] which reads thus:-

"... 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/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."

7. The Personnel and Administrative Reforms (N) Department, Government of Tamil Nadu has taken note of the said judgment and issued administrative instructions in letter No.13519/N/2015-1 dated 23.07.2015 to review the order of suspension in the light of the above-said judgment.

8. This Court, in the light of the ratio laid down by the Honourable Supreme Court in the above-said judgment coupled with the directions issued by the Government of Tamil Nadu, is inclined to interfere with the order of suspension and remand the matter once again to the second respondent for fresh consideration.

9. In the result, the Writ Petition is partly allowed and the impugned order of suspension dated 11.9.2015 is set aside and the matter is remanded back to the second respondent for fresh consideration and adjudication in the light of the above cited judgment rendered by the Honourable Supreme Court as well as the directions issued by the Administrative Department. The second respondent is directed to complete the said exercise within a period of four weeks from the date of receipt of a copy of this order and

communicate the decision taken, to the petitioner. No costs.
Consequently, M.P.Nos.1 and 2 of 2015 are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

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To

1. The Director,
Adi Dravidar Welfare Department,
Chepauk, Chennai - 600 005.
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At Kanchipuram.
 3. The District Adi Dravidar and
Tribal Welfare Officer,
Kanchipuram,
Kanchipuram District.
 4. The Special Tahsildar,
Adi Dravidar Welfare,
Kanchipuram District.
- +1 cc to Mr.M.V.Muralidaran, Advocate, sr.52336
+1 cc to The Government Pleader, sr.52409

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