

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.10.2015

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.3144 of 2015
and M.P.Nos.1 and 2 of 2015

K.Selvaraju

.. Petitioner

Vs.

The Engineer-in-Chief WRD &
Chief Engineer (General),
Public Works Department,
Chepauk,
Chennai-600 005.

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the respondent in Proceedings No.CII(3)/3999/2014-3 dated 12.12.214 and to quash the same and consequently direct the respondent to reinstate the petitioner into service with all consequential benefits.

For Petitioner : Mr.G.Sankaran

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

O R D E R

By consent this writ petition is taken up for final disposal.

2. The petitioner, while working as Assistant Engineer in Public Works Department, was arrayed as an accused in Crime No.16/2014 registered on the file of the All women Police Station, Kallakurichi for the alleged commission of offences under Sections 147, 498(A), 323, 294(b) and 307 I.P.C. read with Section 4 of Tamil Nadu Women Harassment Act, 2000 and the petitioner was suspended and remanded and consequently he was placed under deemed suspension and to review the same, the petitioner submitted a representation dated 20.10.2014 and it was rejected, vide impugned proceedings dated 12.12.2014 and challenging the legality of the same, the petitioner came forward to file this writ petition.

3. The learned counsel appearing for the petitioner would submit that the above said criminal case, after investigation, has culminated into a charge sheet and it has been filed before the Judicial Magistrate Court, Kallakurichi, charging the petitioner

for the offences under Sections 498(A), 294(b) and 323 I.P.C. The learned counsel appearing for the petitioner would further submit that since grave and serious offences have been committed and considering the fact that it is a matrimonial dispute, there cannot be any impediment on the part of the respondent to review the order of suspension and prays for revocation of the order of suspension.

4. Per contra, Mr.V.Subbiah, learned Special Government Pleader appearing for the respondent would submit that the petitioner is placed under suspension and unless and until it is reviewed by the competent authority, he cannot be reinstated into service and the petitioner, as a matter of right cannot claim for revocation of the order of suspension.

5. This Court has carefully considered the rival submissions and also perused the materials placed before it.

6. The Hon'ble Supreme Court of India in the decision in in Ajay Kumar Choudhary Vs. Union of India [2015 (3) CTC 119] 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/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 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. This Court, in the light of the above facts and circumstances, namely filing of the charge sheet for lesser offences and also in the light of the ratio laid down in the above cited decision, is of the view that the impugned order warrants

remanded to the respondent for fresh consideration.

8. This Writ Petition is partly allowed and the impugned order passed by the respondent in Proceedings No.CII(3)/3999/2014-3 dated 12.12.214 is set aside and the matter is once again remanded to the respondent for fresh consideration and the respondent shall take into consideration the filing of the charge sheet for offences under Sections 498(A), 294(b) and 323 I.P.C before the jurisdictional Court as well as in the light of the above cited judgment rendered by the Hon'ble Supreme Court and pass orders with regard to the prayer made by the petitioner for revoking the order of suspension within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

jvm

To

The Engineer-in-Chief WRD &
Chief Engineer (General),
Public Works Department,
Chepauk,
Chennai-600 005.

+2 ccs to Mr.G.Sankaran, Advocate, sr.54873 & 55342
+1cc to Government Pleader, sr.54733

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