

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30-10-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.34941 of 2015

R.Muthukrishnan

.. Petitioner

vs

1. The Government of Tamil Nadu  
Rep. By its Secretary to Home  
Department  
Fort St. George, Chennai 600 009

2. The Director General of Police  
Kamarajar Salai  
Mylapore, Chennai 600 004

3. The Commissioner of Police  
Coimbatore City

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents 2 and 3 to revoke the suspension order, passed by the third respondent, and reinstate the petitioner in earlier post of Head Constable with proper monetary benefits with retrospective effect from 25.3.2015, on the basis of the petitioner's representation dated 26.10.2015.

For Petitioner : Mr.A.Rajaram

For Respondents : Mr.S.Gunasekaran  
Government Advocate

ORDER

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

2.The petitioner would state that he while working as a Head Constable of 7<sup>th</sup> Platoon, Armed Reserve, was said to have involved in a criminal case registered by the CCB, Salem City, in Crime No.7 of 2015 for the alleged commission of offences under Sections 120(B), 419 and 420 IPC, and the allegation is

that he had cheated one Sugavanam and two others by receiving a sum of Rs.5 lakhs each, aggregating to a sum of Rs.15 lakhs, and promised them to get Government jobs within a month. It is further stated by the petitioner that he was placed under suspension on 25.3.2015, and to review the order of suspension, has filed this writ petition.

3.The learned Counsel appearing for the petitioner, would submit that the petitioner has nothing to do with the alleged commission of offences and he is innocent and hence, prays for reviewing/revoking the order of suspension.

4.Per contra, Mr.S.Gunasekaran, learned Government Advocate, who accepted notice on behalf of the respondents, would contend that the petitioner by promising the de-facto complainants to get Government jobs, has received a sum of Rs.15 lakhs and he neither repaid the amount, nor secured the job and hence, has been rightly placed under suspension and prays for dismissal of this writ petition.

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 reported in 2015 (3) CTC 119 : (2015) 7 SCC 291 (AJAY KUMAR CHOUDHARY V. UNION OF INDIA AND ANOTHER), has held as under:-

[(2015) 7 SCC 291]

"21.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."

7. Though the petitioner prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the same, directs the third respondent to consider the representation dated 26.10.2015, submitted by the petitioner through proper channel, on merits and in accordance with law and pass orders thereon within a period of twelve weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner. The writ petition is disposed of accordingly. No costs.

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To:

1. The Secretary to Home Department  
Fort St. George, Chennai 600 009
2. The Director General of Police  
Kamarajar Salai  
Mylapore, Chennai 600 004
3. The Commissioner of Police  
Coimbatore City

+ 1 cc to Govt.Pleader SR 59889

+ 1 cc to Mr.A.Rajaram, Advocate SR 59655

msm(co)  
prk17/11

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