

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P.No.36576 of 2015

M.P.No.1 of 2015

D.Sripathy

.. Petitioner

Vs.

The General Manager,
Vellore - Thiruvannamalai District Co-operative
Milk Producers Union Ltd.,
Sathuvachari,
Vellore - 9.

.. Respondent

Prayer:-Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the entire records relating to the impugned order passed by the respondent in his Ref.No.3702/I.R/2014-3, dated 14.06.2014 and quash the same consequently, direct the respondent to reinstate the petitioner into service as Manager in the respondent union with all attendant benefits, backwages and other monetary benefits.

For Petitioner : Mr.C.Prakasam

For Respondents: Mr.R.Bala Ramesh
Additional Govt. Pleader

ORDER

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

2. The petitioner would state that while he was working as a Manager in the respondent -Union, was involved in a criminal case, which led to his arrest by the District Crime Branch, Vellore, pursuant to which, and he was placed under suspension by the respondent vide order dated 14.06.2014 and challenging legality of the same, came forward to file this writ petition.

3. Mr.C.Prakasam, learned counsel appearing for the petitioner would submit that the petitioner has nothing to do with the alleged commission of the offence and has been falsely implicated, arrested and incarcerated and later on, he came out on bail and since the

period of suspension has exceeded three months, it has to be reviewed and hence, prays for appropriate orders.

4. Per contra, Mr.R.Bala Ramesh, learned Additional Government Pleader, who accepted the notice on behalf of the respondent would contend that the petitioner has misappropriated the funds of the respondent-Union and therefore, a complaint was lodged against him, which resulted in the registration of the criminal case, and he was arrested and incarcerated for more than 48 hours and hence, he has been placed under 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 reported in (2015) 7 SCC 291 (AJAY KUMAR CHOUDHARY V. UNION OF INDIA AND ANOTHER), after placing reliance upon Section 167 (2) of Cr.P.C. has held that the currency of suspension order, should not extend beyond three months, if within the said period, charge-sheet is not served on the delinquent employee and even if the charge-sheet is filed, a reasoned order should be passed for extension of suspension. It is relevant to extract paragraph No.21 of the said judgment as under:-

"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 proceeds 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, permits him to submit a representation for revocation of the order of suspension, within a period of two weeks from the date of receipt of a copy of this order and the respondent, on receipt of the same, is directed to consider it on merits and in accordance with law and pass orders thereon within a period of eight weeks thereafter and communicate the decision taken, to the petitioner.

8. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.
cla

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub-Assistant Registrar

To

The General Manager,
Vellore - Thiruvannamalai District Co-operative
Milk Producers Union Ltd.,
Sathuvachari, Vellore.

+1 C.C. to MR.C.Prakasam, Advocate in Sr.62962

+1 C.C. to MR.R.Balaramesh, Advocate in Sr.63034

+1 C.C. to Government Pleader in Sr.62912

W.P.No.36576 of 2015

AK(CO)

sd : 10/12/2015