



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.10.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.(MD) No.18963 of 2015

K.Murugesan

... Petitioner

-vs-

1.The District Collector
Tirunelveli
Tirunelveli District

2.The District Revenue Officer
Tirunelveli
Tirunelveli District

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of writ of mandamus directing the second respondent to revoke the petitioner's suspension order in view of the letter, issued by the Principal Secretary in his letter No.13579/n/2015, dated 23.07.2015 and G.O.Ms.No.40, dated 30.01.1996, within a stipulated time.

For Petitioner : Mr.K.Prabhu

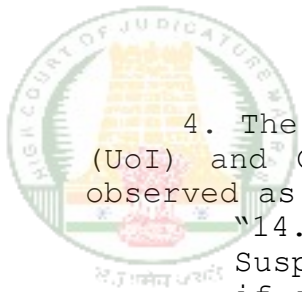
For Respondent : Mr.J.Gunaseelan Muthiah
Government Advocate

O R D E R

Mr.J.Gunaseelan Muthiah, learned Government Advocate, takes notice for the respondents. With the consent of both parties, this writ petition is taken up for final hearing at the admission stage itself.

2. The prayer in the writ petition is for issuance of writ of mandamus to direct the second respondent to revoke the petitioner's suspension order, in view of the letter, issued by the Principal Secretary in his letter No.13579/n/2015, dated 23.07.2015 and G.O.Ms.No.40, dated 30.01.1996, within a stipulated time.

3. The petitioner, who was serving as Revenue Inspector, has been placed under suspension by the second respondent District Revenue Officer, Tirunelveli, by order, dated 20.12.2013. After completion of one year and three months, finding no improvement in reviewing the order of suspension, he has given a representation, dated 01.04.2015, to the respondents to reinstate him into service by revoking the suspension. But, till date the respondents have not passed any orders on his representation. Therefore, aggrieved by the same, he has come to this Court seeking revocation of the suspension order.



4. The Hon'ble Apex Court in Ajay Kumar Choudhary vs. Union of India (UoI) and Ors. reported in 2015 (3) CTC 119, in Paragraph No.14, has observed as under:-

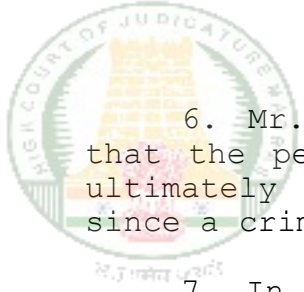
"14. We, therefore, direct that the currency of a Suspension Order should not extend beyond three months if within this period the Memorandum of Charges/Charge-sheet is not served on the delinquent officer/employee; if the Memorandum of Charges/Charge-sheet is served a reasoned order must be passed for 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 contracting 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."

5. In the present case also, after the petitioner was placed under suspension, till date no charge memo has been issued. Following the above direction, the Government has also issued a letter No.13519/R/2015-1, dated 23.07.2015, directing the Departments of Secretariat and Heads of Department to follow the above direction issued by the Hon'ble Supreme Court. The relevant portion of the letter, dated 23.07.2015, reads as under:-

"3. In view of the above, the Hon'ble Supreme Court of India while fixing limitation on the period of suspension directed that,

- (i) 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;
- (ii) If the Memorandum of charges/charge sheet is served a reasoned order must be passed for the extension of the suspension.

The Departments of Secretariat and Heads of Departments are therefore requested to follow the directions ordered by the Hon'ble Supreme Court of India on the limitations in the period of suspension in letter and spirit."



6. Mr.J.Gunaseelan Muthiah, learned Government Advocate, submitted that the petitioner's representation was considered by the respondents, ultimately it has been decided not to take the petitioner in service, since a criminal case is pending.

7. In view of the above cited Judgment of the Apex Court and the letter, dated 23.07.2015, issued by the Government, the respondents are directed to re-consider the order of suspension within a period of three weeks from the date of receipt of a copy of this order.

8. With the above direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(Per.Admn)

/True Copy/

Sub Assistant Registrar.

To:

1.The District Collector,
Tirunelveli,
Tirunelveli District.

2.The District Revenue Officer,
Tirunelveli,
Tirunelveli District.

+1CC to M/s.K.Prabhu, Advocate, SR.No. 61798

+1CC to The Special Government Pleader SR.No. 61665.

W.P.(MD) No.18963 of 2015
15.10.2015

AM/29.10.2015/SK.SKN/SAR-I/3P/5C