

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.12335 of 2016

A.Gopalakrishnan .. Petitioner

-VS-

1. The Principal Secretary to Government
Home (Police) Department
Secretariat, Fort Saint George
Chennai 600 009

2. The Director General of Police
Police Head Quarters
Mylapore
Chennai 600 004

3. The Commandant
TSP VI Battalion
Madurai-14

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records in connection with the order of rejection Rc.No.167756/AP.IV(2)/2011 dated 24.04.2012 passed by the second respondent herein and quash the same consequently direct the respondents to consider the order dated 16.02.2015 passed by the Hon'ble Supreme Court in Ajay Kumar Choudhary vs. Union of India (2015) (3) CTC 119 and the order dated 23.11.2011 passed by the Division Bench of this Court in the Deputy Inspector General of Police, Coimbatore Range vs. S.Govindaraj 2012 (1) CTC 124 and to revoke the suspension and reinstate the petitioner into service with all service benefits.

For Petitioner :: Dr.R.Sampathkumar

For Respondents :: Mr.A.Kumar
Special Government Pleader

ORDER

The petitioner, Mr.A.Gopalakrishnan, while serving as Grade II Police Constable and posted at TSP VI Battalilion, Madurai, was suspended from service by an order dated 11.8.2005 passed by the Commandant, TSP VI Battalion, Madurai. Thereafter, he was issued with the charge memo in P.R.No.15 of 2005 dated 19.8.2005 with three charges. Since the enquiry was pending for a long time, he came to this Court by filing W.P.No.23396 of 2014 seeking a writ of certiorarified mandamus, to quash the order of rejection in Rc.No.167756/A.P.IV(2)/2011 dated 24.4.2012 passed by the second respondent with a further direction to revoke the suspension order and reinstate him in service with all the service benefits. This Court, by order dated 22.1.2015, passed the following order:-

“3. The disciplinary authority is directed to conclude the disciplinary proceedings initiated against the petitioner as expeditiously as possible and in any case within a period of nine months from the date of receipt of a copy of this order. It is open to the disciplinary authority to approach this Court for extension of time in case the trial is prolonged on account of reasons beyond the control of the complainant in the case in question.”

In spite of the above direction, till date the respondents have not completed the enquiry. Therefore, the learned counsel for the petitioner submitted that after the petitioner has been placed under suspension from 11.8.2005, since much

water has flown down after the judgment of the Apex Court in the case of **Ajay Kumar Choudhary v. Union of India, 2015 (3) CTC 119**, observing that the currency of a suspension order should not extend beyond three months if within this period the memorandum of charges/chargesheet is not served on the delinquent officer/employee or if the memorandum of charges/chargesheet is served a reasoned order must be passed for the extension of the suspension, the respondents could consider the case of the petitioner for revocation of the suspension order. It was also pleaded by the learned counsel for the petitioner that in deference to the directions given by the Apex Court, the Principal Secretary to Government, Personnel and Administrative Reforms Department had also issued the Letter No.13519/N/2015-1 dated 23.7.2015 stating that the order of suspension should be reviewed even if the charge sheet is filed. But in the present case, till date the respondents have not undertaken any exercise to review the suspension order. Therefore, in the light of the judgment of the Apex Court in Ajay Kumar's case cited supra and followed by the letter issued by the Principal Secretary to Government, Personnel and Administrative Reforms Department dated 23.7.2015, the representation of the petitioner should be directed to be considered, he pleaded.

2. Mr.A.Kumar, learned Special Government Pleader takes notice on behalf of the respondents.

3. This Court, considering the fact that the petitioner has been placed

under suspension for more than ten years, the respondents, in my considered view, should be directed to consider the case of the petitioner sympathetically. Accordingly, the impugned rejection order is set aside and the respondents are hereby directed to consider the representation of the petitioner, in the light of the judgment of the Apex Court in Ajay Kumar Choudhary's case read with the letter issued by the Principal Secretary to Government, Personnel and Administrative Reforms Department, and pass appropriate orders within a period of two months from the date of receipt of a copy of this order. The writ petition stands disposed of accordingly. Consequently, W.M.P.Nos.10668 to 10670 of 2016 are closed. No costs.

Index : yes/no

01.04.2016

ss

To

1. The Principal Secretary to Government
Home (Police) Department
Secretariat, Fort Saint George
Chennai 600 009
2. The Director General of Police
Police Head Quarters
Mylapore
Chennai 600 004
3. The Commandant
TSP VI Battalion
Madurai-14

T.RAJA, J.

SS

W.P.No.12335 of 2016

01.04.2016