

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.05.2016

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.18486 of 2016

V.Rajaraman

... Petitioner

Vs.

1. The District Collector,
Vellore District,
Vellore.

2. The Assistant Director of Small Savings
and Ex. office Personal Assistant,
(Small Savings & Raffles) to the Collection,
Vellore District,
Vellore 532 009.

... Respondents

PRAYER : Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus, directing the respondents to consider the petitioner's representation dated 06.05.2016 and thereby directing the respondents to reinstate the petitioner into service from 09.12.2010 with all consequential monetary and other service benefits.

For Petitioner : Mr.G.Selvam

For Respondents : Ms.P.Kavitha,
Government Advocate

ORDER

Heard Mr.G.Selvam, learned counsel for the petitioner and Ms.P.Kavitha, learned Government Advocate, who took notice for the respondents.

2. By consent of both the parties, the writ petition is taken up for final disposal at the time of admission itself.

3. The petitioner has filed this writ petition, to direct the respondents to consider his representation dated 06.05.2016 and to reinstate the petitioner into service with effect from 09.12.2010 with all consequential monetary and other service benefits.

4. The case of the petitioner is that he is working as Accountant in the Small Savings Schemes under the second respondent herein for more than 17 years. While so, based on the false complaint given by one Sundar on 18.12.2010 to the Inspector of Police, Vigilance and Anti Corruption, Vellore, alleging that the petitioner has demanded a sum of Rs.4,000/- as bribe from him for renewal of his Small Savings Scheme against license, a case in Crime No.15/2010 dated 18.12.2010 was registered against the petitioner under Section 7 of the Prevention of the Corruption Act. Pursuant to the same, the petitioner was arrested and remanded to judicial custody. Subsequently, he was released on bail. In the mean while, he was placed under suspension with effect from 09.12.2010, without any enquiry. In the said criminal case, no charge sheet has been filed before the concerned Court and there is no substantial progress in the said criminal case. Further, without following the procedure laid down in G.O.Ms.No.40 Personnel and Administrative Reforms (N) Department dated 30.01.1996, G.O.Ms.No.29, P&AR Department dated 23.02.2012 and G.O.Ms.No.30 P&AR Dept., dated 23.02.2012, the petitioner has been under prolonged suspension for the past 6 years. Hence, the petitioner made a representation dated 06.05.2016 to the respondents stating that he was falsely implicated in the case and he has nothing to do with the alleged offence and requesting to revoke the suspension and reinstate him into service with all monetary and other service benefits. However, till date, no order has been passed by the respondents. Therefore, the petitioner is before this court with the present writ petition for the above stated relief.

5. When the matter came up for consideration, learned counsel appearing for the petitioner submitted that in similar circumstances, this Court in the order dated 21.02.2014 made in WP.No.5178 of 2014, disposed of the writ petition, by directing the respondent to consider the petitioner's representation in the light of the orders passed in W.P.Nos.29195 of 2010 etc. batch dated 2.7.2012 (G.Mathivannan v. The Director of Municipal Administration, Chepauk, Chennai-5 and another). He prayed for similar order in this writ petition also.

6. Keeping the submission made by the learned counsel for the petitioner, I have perused the order dated 21.02.2014 made in WP.No.5178 of 2014.

7. For better appreciation, the relevant paragraphs of the said order are extracted below:

"5. Learned counsel appearing for the petitioner by relying upon the order of this Court dated 2.7.2012 made in W.P.Nos.29195 of 2010, etc.

batch, in the case of G.Mathivannan v. The Director of Municipal Administration, Chepauk, Chennai-5 and another, submitted that in the identical issue, this Court has set aside the suspension order and directed the respondents therein to transfer the petitioners therein to far away place and post them in a non-sensitive post. In this case also, the same order could be passed.

6. The relevant portion of the said order is usefully extracted hereunder:-

" 7. Apart from this, in all these cases, after a period of 6 months, the petitioners are entitled to get 75% of emoluments as subsistence allowance. Instead of keeping them idle and paying 75% of salary, by way of allowance, by transferring them to a far away place and posting them in a non-sensitive post, after extracting work, they can be paid salary. However, the same can be done without detriment to the action initiated against them. In the criminal case, some of them or a few of them may be exonerated or they may be punished. But, as on date, not only finality has not been reached but there is no progress. Under such circumstances, in the opinion of this Court, continuance of their suspension is unreasonable following the judgment of the Division Bench.

8. In view of this, the suspension orders passed in all these writ petitions are set aside. However, the respondents are at liberty to post these petitioners in a far away place from the station of occurrence and post them in a non-sensitive post and if for any reason, the authorities are of the opinion that their continuance in service is a hindrance for the action initiated against them, they can re-examine the issue and they are at liberty to take appropriate action".

7. Considering the facts and circumstances of the case and in the light of the order passed in the said writ petitions, I am of the opinion that instead of giving a positive direction, an appropriate direction could be given to the respondent to consider the case of the petitioner in the light of the orders passed in W.P.Nos.29195 of 2010, etc. batch dated 2.7.2012.

8. Accordingly, the present writ petition is disposed of, with a direction to the petitioner to give a detailed representation to the respondent along with a copy of this order, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the respondent is directed to consider the said representation in the light of the orders passed in W.P.Nos.29195 of 2010, etc. batch dated 2.7.2012 and pass appropriate orders, within a period of four weeks thereafter. No costs. Consequently, connected miscellaneous petitions are closed."

The above said order, in my considered view, will hold good for this writ petition also.

8. Accordingly, the writ petition is disposed of, directing the respondents to consider the petitioner's representation dated 06.05.2016 by affording an opportunity of personal hearing to the petitioner and pass appropriate orders on merits and in accordance with law and also in the light of the orders dated 02.07.2012 made in WP.Nos.29195 of 2010 etc batch, within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Vacation Officer

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Vellore District,
Vellore.
2. The Assistant Director of Small Savings
and Ex. office Personal Assistant,
(Small Savings & Raffles) to the Collection,
Vellore District,
Vellore 532 009.

+1cc to Mr.G.Selvam, Advocate, S.R.No.28799
+1cc to the Government Pleader, S.R.No.28778

W.P.No.18486 of 2016

PUR(CO)
CA(27/05/2016)