

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15-06-2016

Coram

THE HON'BLE MR. JUSTICE B. RAJENDRAN

Writ Petition No.20095 of 2016

A.Akbarbasha

.. Petitioner

Vs.

1.State of Tamilnadu
rep. by its Principal Secretary
Personnel and Administrative Reforms (N) Department
Fort St.George
Secretariat
Chennai-600 006.

2.The Assistant Director of Survey
and Land Records
Collectorate Buildings
Krishnagiri.

.. Respondents

Writ Petition filed under Article 226 of the constitution of India to issue a Writ of Mandamus, to direct the respondents to revoke the order of suspension and reinstate the petitioner in the non-sensitive area by considering the petitioner's representation, dated 23.02.2016, and to pass order on merits within a stipulated period as fixed by this Court in terms of circular Letter No.13519/ N/2015-1, dated 23.07.2015 issued by the 1st respondent and to pass such further orders as may be necessary.

For Petitioner : Mr.R.Ezhilarasan

For Respondents : Mr.M.Dig Vijayaa Pandian
Additional Government Pleader

* * *

O R D E R

By consent, the Writ Petition is taken up and disposed of at the admission stage itself.

2. This Writ Petition has been filed to issue a Writ of Mandamus, to direct the respondents to revoke the order of

suspension and reinstate the petitioner in the non-sensitive area by considering the petitioner's representation, dated 23.02.2016, and to pass order on merits within a stipulated period as fixed by this Court in terms of circular Letter No.13519/ N/2015-1, dated 23.07.2015 issued by the 1st respondent.

3. According to the petitioner, while he was working as Sub-Inspector of Survey, Krishnagiri District, a case was registered against him in Crime No.9/2015/AC/KG by the Vigilance and Anti-Corruption Department, Krishnagiri, for the offence of corruption. Thereafter, the petitioner was arrested, on a trap laid, alleging that he demanded and accepted the bribe of Rs.30,000/- from D.Lakshmidevi, on 23.11.2015. Subsequently, he was suspended from service, on 23.11.2015 by the 2nd respondent by way of his proceedings dated 26.11.2015. The petitioner has made a representation to the 2nd respondent, on 23.02.2016, to revoke the order of suspension and to reinstate him in non-sensitive area. But, till date, there was no response and hence, he has filed the present Writ Petition.

4. Mr.R.Ezhilarasan, the learned counsel for the petitioner would submit that though, the petitioner was suspended from service, on 23.11.2015 by the 2nd respondent by way of his proceedings dated 26.11.2015, subsequently, the order of suspension was not reviewed. For the proposition that the order of suspension cannot be prolonged continuously for long time, he would rely on the judgment of the Hon'ble Apex Court reported in (2015) 3 CTC 119 (SC), Ajay Kumar Chaudry vs. Union of India. He would also contend that pursuant to the ratio laid down by the Hon'ble Apex Court in Ajay Kumar Chaudry's case (cited supra), the Government also has issued a circular in Letter No.13519/N/2015-1, dated 23.07.2015 for implementation of the direction issued by the Apex Court wherein the Apex Court while fixing limitation on the period of suspension had directed as follows:-

(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."

The learned counsel would contend that the petitioner would be satisfied, if his representation, dated 23.02.2016, to revoke the order of suspension and to reinstate him in the non-sensitive area, is directed to be considered by the 2nd respondent and appropriate orders are passed, in the light of the judgment of the Hon'ble Apex Court cited supra.

5. Mr.M.Dig Vijaya Pandian, the learned Additional Government Pleader, who takes notice on behalf of the respondents, has got no serious objection in directing the 2nd respondent to consider the representation of the petitioner and to pass appropriate orders, on merits and in accordance with law.

6. Considering the above submissions, this Court, without going into the merits of the claim made by the petitioner, directs the 2nd respondent to consider the representation of the petitioner, dated 23.02.2016, and pass appropriate orders, on merits and in accordance with law, in the light of the judgment of the Hon'ble Apex Court reported in (2015) 3 CTC 119 (SC), Ajay Kumar Chaudry vs. Union of India, as expeditiously as possible, preferably within a period of three weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion with regard to the merits of the claim made by the petitioner.

7. The Writ Petition is disposed of accordingly. No costs.

paa

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Principal Secretary
Personnel and Administrative Reforms (N) Department
Fort St.George, Secretariat, Chennai-600 006.

2.The Assistant Director of Survey and Land Records,
Collectorate Buildings, Krishnagiri.

+ 1 cc to The Govt.Pleader, Sr 33132

+ 1 cc to Mr.R.Ezhilarasan, Advocate SR NO 32599[14/7/16]

KR/13/7/16

W.P.No.20095 of 2016