

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17-06-2016

Coram

THE HON'BLE MR. JUSTICE B. RAJENDRAN

Writ Petition No.20502 of 2016
and W.M.P.No.17585 of 2016

V.Vimal

.. Petitioner

Vs.

1.The District Collector
Cuddalore
Cuddalore District.

2.The Personal Assistant (General) to the Collector
Cuddalore
Cuddalore District.

.. Respondents

Writ Petition filed under Article 226 of the constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in his impugned proceedings bearing No.A2/29842/2013, dated 27.12.2013 and No.Na.Ka.A2/29842/2013, dated 19.02.2015 and quash the same and consequently, to direct the respondents to reinstate the petitioner in service as Junior Assistant in the light of the judgment reported in 2015 (3) CTC 119 and Government Letter No.13519/N/2015-1, dated 23.07.2015 and to pass such further or other orders as it may deem fit.

For Petitioner : Mr.K.Raja

For Respondents : Mr.A.Kumar
Special Government Pleader

ORDER

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 Certiorarified Mandamus, to call for the records of the 2nd respondent in his impugned proceedings bearing No.A2/29842/2013, dated 27.12.2013 and Na.Ka.A2/29842/2013, dated 19.02.2015, and quash the same and consequently, to direct the respondents to

reinstate the petitioner in service as Junior Assistant, in the light of the judgment of the Hon'ble Supreme Court reported in (2015) 3 CTC 119 (SC), Ajay Kumar Chaudry vs. Union of India, and the administrative instructions issued by the Government of Tamil Nadu in Letter No.13519/N/2015-1 P&AR (N) Department, dated 23.07.2015.

3. The petitioner entered into service as Junior Assistant, on compassionate ground, on 26.06.2000. While, he was working as Junior Assistant in the office of the Special Tahsildar, Adi Dravidar Welfare Board, Chidambaram, he was suspended from service, on 27.12.2013, by the 2nd respondent. Subsequently, a criminal case was registered against the petitioner in Cr.No.3 of 2014. The petitioner filed a Writ Petition seeking to direct the respondents to pass orders on the representation, dated 27.10.2014, seeking for reinstatement. The said Writ Petition was disposed of, directing the respondents to consider and pass orders on the representation of the petitioner, within a period of four weeks. However, the petitioner's claim for reinstatement was rejected by the 2nd respondent, by the impugned order, dated 19.02.2015. The petitioner has again made representations, dated 10.04.2016 and 10.06.2016, requesting to revoke the order of suspension and to reinstate him in service, based on the order passed by this Court in W.P.No.34562 of 2015, dated 29.10.2015, which was filed by his higher official. Till date, there was no response and hence, seeking the relief stated supra, the present Writ Petition has been filed.

4. Mr.K.Raja, the learned counsel for the petitioner would submit that though, the prayer in this Writ Petition is for a larger relief, he is restricting his claim and he would be satisfied, if a direction is issued to the 2nd respondent to consider the representations of the petitioner, dated 10.04.2016 and 10.06.2016, and pass appropriate orders, in the light of the judgment of the Hon'ble Supreme Court reported in (2015) 3 CTC 119 (SC), Ajay Kumar Chaudry vs. Union of India, wherein, it was held that the order of suspension cannot be prolonged continuously for long time. 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."

5. Mr.A.Kumar, the learned Special Government Pleader, who takes notice on behalf of the respondents, pointed out that the representations are pending.

6. Taking into consideration that the petitioner is restricting the relief sought for in the Writ Petition, this Court, without going into the merits of the claim made by the petitioner, directs the 2nd respondent to consider the representations of the petitioner, dated 10.04.2016 and 10.06.2016, and pass appropriate orders, in the light of the judgment of the Hon'ble Supreme Court reported in (2015) 3 CTC 119 (SC), Ajay Kumar Chaudry vs. Union of India and also the Circular issued by the Government of Tamil Nadu in Letter No.13519/N/2015-1 P&AR (N) Department, dated 23.07.2015, after affording sufficient opportunity to the petitioner, as expeditiously as possible. 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. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS-V)

सत्यमेव जयते

//True Copy//

Sub Assistant Registrar

paa

To

1.The District Collector
Cuddalore
Cuddalore District.

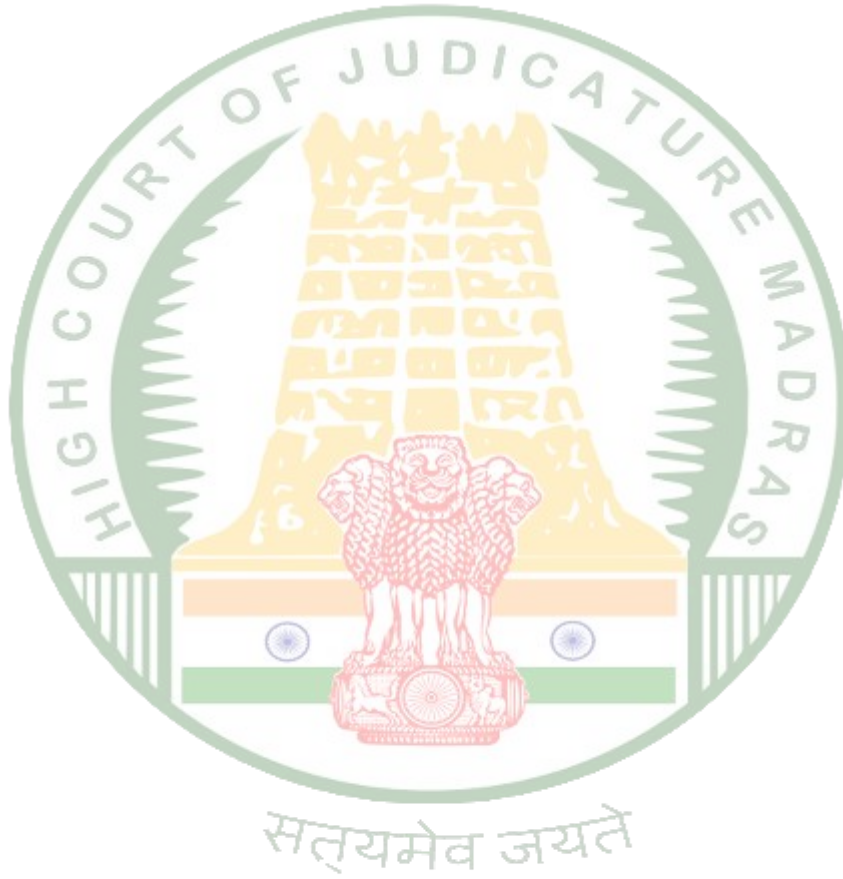
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2.The Personal Assistant (General) to the Collector
Cuddalore
Cuddalore District.

1 cc to Mr.K.Raja, Advocate, sr.33379
1 cc to Government Pleader, sr.33710

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svi co
kra 29.06.2016



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