IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23-06-2016

Coram

THE HON'BLE MR. JUSTICE B. RAJENDRAN

Writ Petition No.21491 of 2016
and
W.M.P.Nos.18362 and 18363 of 2016

P.Sathyasheela ... Petitioner

Vs.

1. The Government of Tamil Nadu
   rep. by the Secretary
   Revenue Department
   Fort St.George
   Chennai-600 009.

2. The District Collector
   Coimbatore District
   Coimbatore.

3. The District Revenue Officer
   Coimbatore.

4. The Revenue Tahsildar,
   Coimbatore.

5. The Commissioner
   Tribunal for Disciplinary Proceedings
   Coimbatore. ... Respondents

Writ Petition filed under Article 226 of the constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the 3rd respondent in ROC No.8157/2014/A3, dated 09.05.2014 and quash the same and to direct the respondents to reinstate the petitioner with all attendant service benefits and pass such further orders as this Court may deem fit and proper in the circumstances of the case.

For Petitioner : Mr.K.Moorthy

For Respondents : Mr.K.Rajendra Prasad
Government Advocate

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O R D E R

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

2. This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the 3rd respondent in ROC No.8157/2014/A3, dated 09.05.2014 and quash the same and to direct the respondents to reinstate the petitioner with all attendant service benefits.

3. The petitioner entered into service as Junior Assistant, on 03.06.2009. Subsequently, he got several promotions. While, he was working as Revenue Inspector, under corruption charge, he was placed under suspension. A criminal case was also registered. He was placed under suspension, on 09.05.2014. He made representations to the respondents 3 and 4 to revoke his suspension and to reinstate him in service. He also made a representation seeking to review his suspension. But, his representation seeking review, was rejected by the order of the 3rd respondent, on 21.03.2015. During the period of suspension, the petitioner was not paid the subsistence allowance. Hence, seeking to quash the suspension order, the Writ Petition has been filed.

4. Mr.K.Moorthy, the learned counsel appearing for the petitioner, would submit that the petitioner has been kept under suspension for the past more than two years. Subsequently, the Enquiry Officer has been appointed, but, there is no progress in the enquiry proceedings. He would further add that a criminal case was also registered and the same is also pending. He would further add that review on extension of suspension has not been done for the past more than two years. He would further point out that during the period of suspension, the petitioner has not been paid the subsistence allowance, which is a manifest illegality, therefore, the very suspension order lacks merit. He would further submit that the issue of order of suspension cannot be prolonged continuously for long time, as per the well settled legal position enunciated by the Hon'ble Apex Court in the case of Ajay Kumar Choudhary vs. Union of India through its Secretary and another passed in Civil Appeal No.1912 of 2015 dated 16.02.2015. He would also contend that pursuant to the ratio laid down by the Hon'ble Apex Court in Ajay Kumar Choudhary'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

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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."

He would further point out 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 3rd respondent to pay the subsistence allowance and to expedite the enquiry proceedings and conclude the same within a time frame. He would further add that the petitioner is ready and willing to co-operate with the enquiry proceedings.

5. Mr.K.Rajendra Prasad, the learned Government Advocate, who takes notice for the respondents, has got no objection in issuing the direction as sought for by the learned counsel for the petitioner.

6. Considering the submission of the learned counsel for the petitioner that the petitioner is restricting his prayer and also the fact that the petitioner has been kept under suspension for the past more than two years, without any review, this Court, without going into the merits of the claim made by the petitioner, directs the 3rd respondent, who is the disciplinary authority, to expedite the enquiry proceedings and conclude the same and to pass appropriate orders, on merits and in accordance with law, 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 as per Rules, as expeditiously as possible, preferably within a period of four months from the date of receipt of a copy of this order. If there is any subsistence allowance due and payable to the petitioner that should be paid in accordance with the Rules, forthwith. The undertaking given by the learned counsel for the petitioner that the petitioner will co-operate with the enquiry proceedings is recorded. It is made clear that this Court has not expressed any opinion with regard to the merits of the claim made by the petitioner.

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7. The Writ Petition is disposed of accordingly. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary
   Government of Tamil Nadu
   Revenue Department
   Fort St.George
   Chennai-600 009.

2. The District Collector
   Coimbatore District
   Coimbatore.

3. The District Revenue Officer
   Coimbatore.

4. The Revenue Tahsildar,
   Coimbatore.

5. The Commissioner
   Tribunal for Disciplinary Proceedings
   Coimbatore.

+1cc to Mr.K.Moorthy, Advocate, S.R.No.35065
+1cc to the Government Pleader, S.R.No.35272

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