

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2016

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THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P.No.22108 of 2016
and
W.M.P.No.18860 of 2016

G.Ramalingam

[Petitioner]

Vs

The Chief Engineer,
Tamil Nadu Agricultural Engineering Department,
487, Anna Salai, Nandanam,
Chennai 600 035. [Respondent]

Prayer: Writ petition is filed under Article 226 of Constitution of India, seeking a writ of Certiorarified mandamus to call for the records of the respondent herein relating to the impugned order in Proc.No.DC4/1516/2014 dated 10.01.2014 and quash the same and consequently direct the respondent herein to reinstate the petitioner herein in service forthwith.

For Petitioner : Mr.A.RL.Sundaresan, SC
for M/s.G.Saravanan

For Respondent : Mr.M.Dig Vijay Pandian, AGP

ORDER

With the consent of both parties, the main writ petition is taken up for final disposal at the stage of admission itself.

2. The petitioner has filed this writ petition to quash the order dated 10.01.2014 passed by the respondent and consequently direct the respondent to reinstate the petitioner in service forthwith.

3. The case of the petitioner is that while he was working as Assistant Engineer in the office of the Assistant Executive Engineer (Agricultural Engineering), Thiruvarur, he was placed under suspension by the proceedings of the respondent bearing No.DC4/1516/2014 dated 10.01.2014, based on the investigation by the Vigilance and Anti Corruption Department, Nagapattinam in connection with a complaint lodged by one J.Muthaiyan alleging

that the petitioner has demanded a sum of Rs.50,000/- as bribe for recommending the application submitted by the complainant's wife for availing solar pump set under the Government subsidy scheme. However, till date, no charge sheet has been filed. It is the further contention of the petitioner that if no charge sheet is filed beyond a period of 90 days from the date of suspension, he has to be reinstated into service. Therefore, challenging the order of suspension dated 10.01.2014, the petitioner has come up with the present writ petition.

4. The learned senior counsel for the petitioner would 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 others (2015 (3) CTC 119). 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 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. According to the learned senior counsel for the petitioner, in the case on hand, though the petitioner was suspended as early as on 10.01.2014, no review has been done and no charge sheet has been filed by the respondent. In such circumstances, the petitioner ought to have been reinstated in service. However, the learned senior counsel submits that it would suffice, if a permission is granted to the petitioner to make a representation seeking cancellation or revocation of the suspension order and the same may be directed to be disposed of by the respondent within a stipulated time.

6. The learned Additional Government Pleader, who took notice for the respondent, submits that the petitioner has not filed any representation for revoking the suspension order so

far. He further submits that if a representation is filed, the same would be considered by the respondent.

7. Taking into account the fact that the petitioner was placed under suspension from 10.01.2014 and till date, no review has been done and no charge sheet has been filed by the respondent and also considering the submissions made on either side, this Court permits the petitioner to make a representation within a period of one week from the date of receipt of a copy of this order. On making such representation, the respondent is directed to dispose of the same in the light of the decision of the Hon'ble Apex Court in Ajay Kumar Choudary's case [cited supra] reported in 2015 (3) CTC 119 within a period of eight weeks thereafter.

8. With the above direction, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

The Chief Engineer,
Tamil Nadu Agricultural Engineering Department,
487, Anna Salai,
Nandanam,
Chennai 600 035.

+2 ccs to Mr.G.Saravanan Advocate sr.35903

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