

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12-07-2016

Coram

THE HON'BLE MR. JUSTICE B. RAJENDRAN

Writ Petition No.22483 of 2016
and W.M.P.Nos.19196 and 19197 of 2016

T.Aravind Seeralala Bharathy

.. Petitioner

Vs.

1.The Secretary

Tamil Nadu Legislative Assembly Secretariat
Secretariat
Chennai-600 009.

2.The Deputy Secretary

Tamil Nadu Legislative Assembly Secretariat
Chennai-600 009.

3.The Sub-Collector/Returning Officer
Ambasamudiram Assembly Constituency
Tirunelveli.

... Respondents

Writ Petition filed under Article 226 of the constitution of India to issue a Writ of Certiorari, to call for the entire records relating to the impugned order of the 1st respondent in his proceedings Office Order No.700/2016/LAS(OP-1), dated 06.06.2016 and quash the same and pass such further orders as this Court may deem fit and proper.

For Petitioner : Mr.Devaraj
for Mr.M.Sriram

For Respondents : Mr.A.Kumar
Special Government Pleader

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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 Certiorari, to call for the entire records relating to the impugned order of the 1st respondent in his proceedings Office Order No.700/2016/LAS(OP-1), dated 06.06.2016 and quash the same.

3. The petitioner entered into service as Office Assistant, on 18.01.2007, in the Legislative Assembly. On 14.05.2016, the petitioner intercepted a car for lift and was travelling along with the inmates in the car. While so, the flying squad intercepted the car and recovered postal ballots and hence, a case was registered against the petitioner and others in F.I.R.No.86 of 2016. He was arrested and enlarged on bail, on 15.05.2016. While so, the 1st respondent has suspended the petitioner from service, by the impugned order dated 06.06.2016. Seeking to quash the same, the present Writ Petition has been filed.

4. Mr.Devaraj, the learned counsel for the petitioner would contend that the petitioner has been falsely implicated in this case. During a squad inspection of the Election Commission, no doubt, there were ten postal ballots recovered from the car, in which, the petitioner was only travelling as a gratuitous passenger seeking lift along with others and therefore, he had no connection with the case, but, however, he was suspended from service from 04.06.2016 onwards. He would further add that the offence alleged against the petitioner is not heinous in nature, even the punishment, if at all, granted is only imprisonment for three months and fine of Rs.200/-, whereas, the petitioner is innocent and therefore, the suspension is unwarranted. After elaborate arguments, the learned counsel 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 the petitioner is permitted to make a representation to the 1st respondent and in turn, the 1st respondent may be directed to consider the same 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 petitioner was arrested and released on bail on the same day, therefore, he was kept under suspension, pending criminal enquiry.

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, permits the petitioner to make a representation to the 1st respondent within a period of seven days from the date of receipt of a copy of this order and on receipt of the same, the 1st respondent shall consider the same 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, and in accordance with law, 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 Petitions are closed. No costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary
Tamil Nadu Legislative Assembly Secretariat
Secretariat
Chennai-600 009.

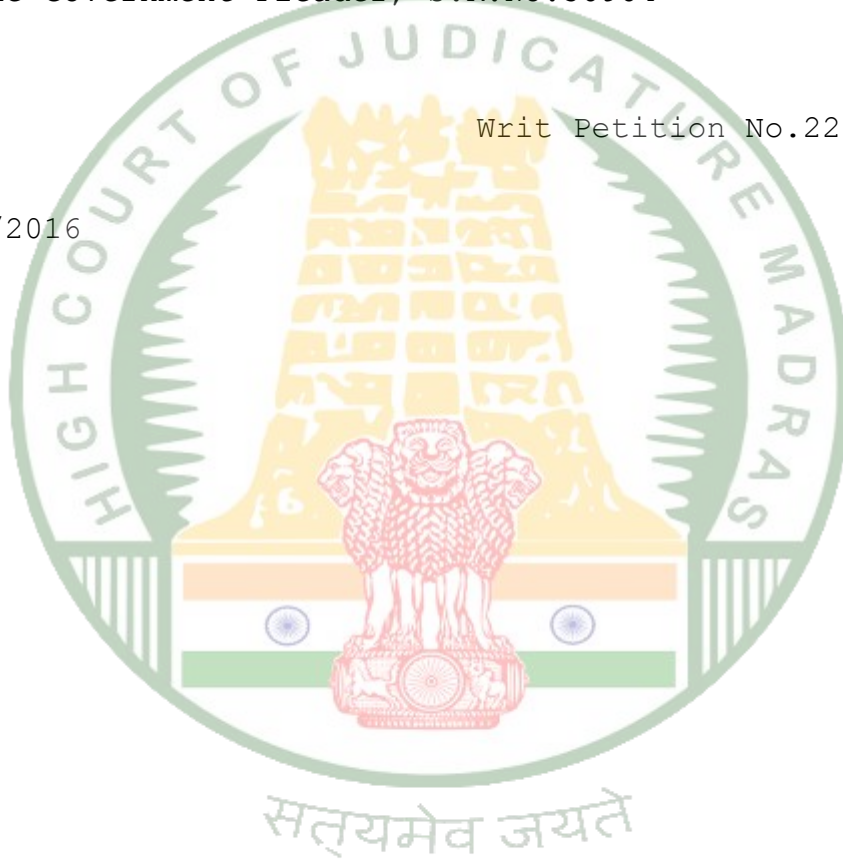
2.The Deputy Secretary
Tamil Nadu Legislative Assembly Secretariat
Chennai-600 009.

3.The Sub-Collector/Returning Officer
Ambasamudiram Assembly Constituency
Tirunelveli.

+2cc to Mr.M.Sriram, Advocate, S.R.No.38924, 38938
+1cc to the Government Pleader, S.R.No.38984

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srg 27/07/2016



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