

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 26-04-2016

CORAM:

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH

Writ Petition No.5442 of 2015

M. Velladurai

.. Petitioner

Vs.

1. The Superintending Engineer
CEDC, West Circle
Thirumangalam 110 KV, SS Complex
Anna Nagar, Chennai - 600 040
2. The Executive Engineer
No.1100A, H- Block, 5th Street
11th Main Road, Ranganathan Garden
Annanagar, Chennai - 600 040
3. The Inspector of Police
Central Crime Branch
Team Five, Forgery Wing
Egmore, Chennai

... Respondents

Petition filed under Article 226 of the Constitution of India praying for a writ of certiorari fied mandamus calling for the records of the 1st respondent in proceedings No.Ku.No.018866/Me.Po/ Se.Mi.Pa.Va/ Me Vu.Ni.A/ Ni.Pi.II/ Vul/ Kho.Oo.Na/14 dated 27.11.2014 rejecting the petitioner request for revoking the order of suspension quash the same and direct the respondents to reinstate the petitioner after revoking the suspension order

For petitioner :: Mr. L.P. Maurya

For respondents :: Mrs. R. Varalakshmi, for RR1 & 2

Mrs. M.E. Raniselvam, AGP for R3

ORDER

By consent, the main writ petition itself is taken up final hearing.

2. The petitioner herein is working as Field Assistant with the respondents. By order dated 30-08-2013, the petitioner

was suspended on the ground that he was arrested by the Central Crime Branch in pursuant to the case register in Crime No.336 of 2013 under Sections 420, 465, 467, 468 and 471 IPC. The allegation in the said complaint is that the petitioner was involved in creating fake documents resulting in monetary loss. The petitioner made representations dated 18-12-2013 and 14-03-2014 stating that his name was not mentioned in the FIR and there is no specific allegation against him. The other ground was one of prolonged suspension. As the aforesaid representations was not disposed of, a direction was issued to do so in the order dated 17-09-2014 in W.P.No.12129 of 2014. It was also followed by another representation by the petitioner dated 10-10-2014. Thereafter, another order was passed on 27-11-2014 rejecting the aforesaid representation on the ground that the petitioner was arrested for the offences mentioned in Crime No.336 of 2013 and he has abetted M/s. Vantage Complete Outdoor Solutions for committing the offence. Challenging the said order, the present writ petition is filed.

3. The learned counsel for the petitioner submitted that no independent departmental proceedings has been initiated till now. The case was registered as early as on 26-08-2013 which did not mention the name of the petitioner. Till now, no charge sheet has been laid. More than 2 ½ years has elapsed. Thus as held by the Apex Court in *Ajay Kumar Choudhary Vs. Union of India* (2015 (7) SCC 291), the impugned order will have to be set aside.

4. The learned counsel appearing for the respondent submitted that though it is factually correct that there is no further progress of the criminal case culminating in the filing of the final report, as long as the power is available to suspend the petitioner no interference is required.

5. It is certainly the case of prolonged suspension. It is not in dispute that during suspension period, the petitioner is receiving subsistence allowance. By keeping the petitioner under suspension without even initiating the departmental proceedings certainly public interest would suffer. We do not know when the final report would come up. Even assuming the final report indicates the involvement of the petitioner, then it would be subject to trial leading to further delay. It is not as if the respondent concerned does not have the power of review over an order of suspension. Certainly prolonged suspension would be a ground for review. The ratio laid down by the Apex Court in *Ajay Kumar Chaudhary's* case will apply to the case on hand.

6. For the aforesaid reason, the impugned order is set aside and in view of the fact that the suspension order is passed earlier in 30-08-2013 is a subsequent one, the petitioner cannot be kept under suspension any more. Consequently, the writ

petition stands allowed with a direction to the respondent concerned to give posting to the petitioner in any one of the places, he chooses. This order is also passed without prejudice to the initiation of the departmental proceedings or on the conclusion of the trial after filing the final report holding the petitioner guilty.

-s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

glp

To

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3. The Inspector of Police
Central Crime Branch
Team Five, Forgery Wing
Egmore, Chennai

+1 cc to Mr.L.P.Maurya Advocate sr.26967/16
+1 cc to Government Pleader High Court
Madras sr.26304/16
+1 cc to Mr.R.Varalakshmi Advocate sr.26724/16

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