

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21-07-2016

Coram

THE HON'BLE MR. JUSTICE B. RAJENDRAN

Writ Petition No.25368 of 2016

R.Sathish

.. Petitioner

Vs.

1.The Director of Elementary Education
Office at College Road
Chennai-600 006.

2.The Chief Educational Officer
Salem.

3.The District Elementary Educational Officer
Salem-636 001
Salem District.

4.The Assistant Elementary Educational Officer
Salem District.

.. Respondents

Writ Petition filed under Article 226 of the constitution of India to issue a Writ of Mandamus, to direct the 3rd respondent to consider the petitioner's representations dated 03.06.2016 and 15.06.2016 for reviewing his suspension and to pass orders thereon on merits and in accordance with law within a specified period as may be stipulated by this Court and pass further suitable orders.

For Petitioner :Mr.P.Ganesan

For Respondents :Mrs.M.E.Raniselvam
Standing Counsel

* * *

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 Mandamus, to direct the 3rd respondent to consider the representations of the petitioner, dated 03.06.2016 and 15.06.2016, seeking to review his suspension and to pass orders thereon, on merits and in accordance with law, within a time frame.

3. The petitioner, while working as B.T.Assistant (English), was suspended from service by the proceedings of the 3rd respondent dated 17.12.2015, based on the criminal case registered in Crime No.667 of 2015. He made representations to the 2nd respondent, on 03.06.2016 and 15.06.2016, which were forwarded to the 3rd respondent, but, till date, no order has been passed. The grievance of the petitioner is that he is in prolonged suspension, without any enquiry. Hence, this Writ Petition has been filed seeking the relief stated supra.

4. Mr.P.Ganesan, the learned counsel appearing for the petitioner, would submit that the petitioner has been kept under suspension from 17.12.2015. Thereafter, he was not allowed to join duty. In this regard, he has made a representations to the 2nd respondent on 03.06.2016 and 15.06.2016, which were forwarded to the 3rd respondent, but, till date, no order has been passed. 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 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 add that the petitioner would be satisfied, if a direction is issued to the 3rd respondent to consider his representations and appropriate orders are passed.

5. Mrs.M.E.Rani Selvam, the learned Standing Counsel, who took 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 in prolonged suspension without any review, this Court, without going into the merits of the claim made by the petitioner, directs the 3rd respondent, to consider the representations of the petitioner, on 03.06.2016 and 15.06.2016, and pass appropriate orders, on merits and 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. 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. No costs.

paa

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

- 1.The Director of Elementary Education
Office at College Road
Chennai-600 006.
- 2.The Chief Educational Officer
Salem.
- 3.The District Elementary Educational Officer
Salem-636 001
Salem District.
- 4.The Assistant Elementary Educational Officer
Salem District.

+ 1 cc to The Govt.Pleader, Sr 41703

+ 1 cc to Mr.P.Ganesan, Advocate Sr 41334

KR/3/8/16

W.P.No.25368 of 2016

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