

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH

AND

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

WA.No.1521/2016 & CMP.No.18816/2016

1.The Director of Public Health and
Preventive Medicine, Chennai.

2.The Deputy Director of Health Services
Krishnagiri.

3.The Block Medical Officer
Government Primary Health Centre
Megalachinnampalli
Krishnagiri District. ...Appellants / Respondents

Vs.

S.Alphonsa ... Respondent/Writ Petitioner

Writ Appeal filed under Clause 15 of Letters Patent against the order dated 20.04.2016 made in WP.No.14527/2016 passed by the learned Single Judge. Writ Petition filed under Article 226 certiorarified mandamus, to Call for the records of the second respondent relating to the orders in (1) Pro.R.No. 4736/A2/2013 dated 30.09.2013 and (2) Pro.R.No. 4736/A2/2013 dated 09.06.2015 quash the same and issue consequential directions to the respondents to reinstate the petitioner in service with all consequential benefits.

For Appellants : Mr.K.Venkataramani
Additional Advocate General
assisted by
Mr.P.S.Sivashanmugasundaram
Special Government Pleader

JUDGMENT

[Judgment of the Court was delivered by HULUVADI G.RAMESH, J.]

Heard Mr.K.Venkataramani, learned Additional Advocate General, appearing for the appellants and the writ appeal is taken up for final disposal at the stage of admission.

2 The Appellants / respondents in WP.No.14527/2016 have preferred the instant Writ Appeal as against the order dated 20.04.2016 made in WP.No.14527/2016 passed by the Learned Single Judge.

3 The Learned Single Judge, while passing the impugned order in WP.No.14527/2016 on 20.04.2016, had observed the following:-

".....

5 A mere perusal of the findings given by the 2nd respondent, in the impugned order, dated 09.06.2015, simply shows that due to the pendency of the criminal case, the 2nd respondent has refused to revoke the suspension order. Therefore, the impugned order, dated 09.06.2015, is set aside and the respondents are directed to re-consider the matter, in the light of the judgment of the Supreme Court in Ajay Kumar Choudhary's case [cited supra], followed in the judgment of this Court in M.Manoharan's case [cited supra] and pass appropriate orders, within a period of four [4] weeks from the date of receipt of a copy of this order."

4 Assailing the validity, legality of the impugned order dated 20.04.2016 in WP.No.14527/2016 passed by the learned Single Judge, the learned Additional Advocate General appearing for the appellants contended before this Court that the impugned order of the learned Single Judge, in allowing the writ petition, is against law and further, it is contrary to the facts and merits of the case.

5 The learned Additional Advocate General would submit that the respondent / writ petitioner, the Village Health Nurse, was placed under suspension on the ground that she was trapped and arrested by the Vigilance Authorities for demand and acceptance of bribe of Rs.1600/- from Mr.M.Harikrishnan, a Medical Representative of a Private Medical Company, for arranging to get sanction of financial assistance of Rs.12,000/- for the wife of the said Harikrishnan, under "Dr.Muthulakshmi

Reddy Maternity Benefit Scheme". It is the further submission of the learned Additional Advocate General that since the respondent was facing criminal case, her suspension order could not be revoked as the offence committed by her is of grave in nature. Continuing further, the learned Additional Advocate General contended that the ratio laid down by the Hon'ble Apex Court in Ajay Kumar Choudhary V. Union of India reported in 2015 [1] SCC 291 followed in WP.No.17478/2014 dated 10.03.2015 [M.Manoharan Vs. The Chief Engineer/Personnel, Tamil Nadu Generation and Distribution Corporation Ltd., Chennai] will not be applicable to the case of the writ petitioner / respondent herein as the said ratio is applicable only to those who have been placed under suspension arising out of Departmental / Disciplinary inquiries pertaining to non-vigilance and / or any non-criminal cases. Lastly, the learned Additional Advocate General submitted that the pendency of a criminal case before a Court of law cannot be questioned by anyone, much less the respondent herein and that the request of the respondent / writ petitioner to revoke her suspension order, is baseless and hence, prays for setting aside of the impugned order passed by the learned Single Judge dated 20.04.2016 made in WP.No.14527/2016.

6 This Court considered the submissions made by the learned Additional Advocate General and also perused the materials placed before it, in particular, the impugned order dated 20.04.2016 made in WP.No.14527/2016.

7 As evidenced from the impugned order, viz., the order passed by the learned Single Judge in WP.No.14527/2016 dated 20.04.2016, the learned Single Judge, by referring to the decision of the Hon'ble Apex Court in Ajay Kumar Choudhary's case [cited supra], followed by this Court in WP.No.17478/2016 [M.Manoharan's case], directed the Government / respondents therein to re-consider the matter of the writ petitioner / respondent in the light of the above cited judgments, despite the pendency of the criminal proceedings. This Court is of the considered view that such pendency of the criminal proceedings will not be an impediment / bar for the respondents to consider the case of the writ petitioner / respondent. Hence, the impugned order of the learned Single Judge, in the considered opinion of this Court, warrants no interference.

8 Accordingly, the Writ Appeal is dismissed and the order passed by the learned Single Judge dated 20.04.2016 made in WP.No.14527/2015 is hereby confirmed. No costs. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP
To

- 1.The Director of Public Health and Preventive Medicine, Chennai.
- 2.The Deputy Director of Health Services Krishnagiri.
- 3.The Block Medical Officer Government Primary Health Centre Megalachinnampalli Krishnagiri District.

+lcc to Mr.M. Ravi, Advocate, S.R.No.70378

ss(CO)
md(23/01/2017)

सत्यमेव जयते WA.No.1521/2016

WEB COPY