

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12-08-2016

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THE HON'BLE MR.JUSTICE B. RAJENDRAN

Writ Petition No.28234 of 2016

P.Dhandapani

.. Petitioner

Vs.

1.The Additional Registrar of Co-operative Societies
Chennai Region,
Chennai 600 018.

2.The Deputy Registrar of Co-operative
Societies (Credits),
Chennai 600 018.

.. Respondents

Writ Petition filed under Article 226 of the constitution of India to issue a Writ of Mandamus, to direct the respondents to consider and pass orders on the Petitioner's representation, dated 17.06.2016, for revocation of suspension in the light of Judgment of **Ajaykumar Choudhary's** case reported in **2015 (7) SCC 291**, rendered by Hon'ble Supreme Court of India and as per the Government Circular issued in Letter No.13519/N/2015-1, P & AR(N) Department, dated 23.07.2015 and to permit the petitioner to retire from service on 31.03.2015 AN, without prejudice to the pending disciplinary proceedings and continue the same under Rule 9 of Tamil Nadu Pension Rules 1978, and sanction provisional pension to the petitioner and to pass such further orders as this Court may deem fit.

For Petitioner

:Mr.K.Govindaraj

For Respondents

:Mr.Rajaperumal
Additional Government Pleader

ORDER

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 respondents to consider and pass orders on the Petitioner's representation, dated 17.06.2016, for revocation of suspension in the light of Judgment of *Ajaykumar Choudhary's* case reported in **2015 (7) SCC 291**, rendered by Hon'ble Apex Court and as per the Government Circular issued in Letter No.13519/N/2015-1, P & AR(N) Department, dated 23.07.2015 and to permit the petitioner to retire from service on 31.03.2015 AN, without prejudice to the pending disciplinary proceedings and continue the same under Rule 9 of Tamil Nadu Pension Rules 1978, and sanction provisional pension to the petitioner.

3. The petitioner joined service as Typist in the Department of Co-operative Societies on 30.03.1979 and subsequently, he got several promotions. While, he was working as Co-operative Sub-Registrar, the 2nd

respondent initiated disciplinary proceedings under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. The petitioner was issued with a charge memo, dated 02.12.2014, alleging certain irregularities committed by him while he was serving as Special Officer of Transport Corporation Employees Co-operative Credit and Thrift Society, from 29.10.2010 to 27.12.2011. By proceedings of the 1st respondent, dated 09.03.2015, the petitioner was placed under suspension and he was not allowed to retire from service on attaining the age of superannuation on 31.03.2015. The petitioner has made a representation to the 1st respondent, on 17.06.2016 to revoke his suspension and to permit him to retire from service on 31.03.2015, but, there was no response till date. Aggrieved against the same, the petitioner has filed the present Writ Petition seeking the relief stated supra.

4. Mr.K.Govindaraj, the learned counsel appearing for the petitioner, would submit that the petitioner has been kept under prolonged suspension from 09.03.2015 and he was not permitted to retire from service on attaining the age of superannuation on 31.03.2015. He

would further add that review on extension of suspension has not been done for the past 1 ½ years. 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, reported in 2015(7) SCC 291*. 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, P&AR(N) Department, 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 point out that the petitioner would be satisfied, if a direction is issued to the 1st respondent to consider the representation of the petitioner, dated 17.06.2016 and appropriate orders are passed in the light of the judgment cited supra and as per the Rules.

5. Mr.Rajaperumal, the learned Additional Government Pleader, who took notice for the respondents, has got no objection in issuing the direction as sought for by 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 1st respondent, to consider the representation of the petitioner, dated 17.06.2016, for revocation of

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suspension, and pass appropriate orders, on merits and in the light of the judgment of the Hon'ble Apex Court reported in **(2015) 7 SCC 291, *Ajay Kumar Choudhary vs. Union of India and 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.

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12-08-2016

Index : Yes/No

Internet : Yes/No

To

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