

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

WRIT PETITION No.28518 OF 2016

G.Millar

... Petitioner

vs.

1. The District Collector,
Dharmapuri District,
Dharmapuri.
 2. The Inspector of Police,
Vigilance and Anti Corruption Department,
Dharmapuri District.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus, call for the records relevant to the order in Roc.No.11230/2016/A2, dated 23.07.2016 passed by the 1st respondent and quash the same as illegal, improper, unreasonable, arbitrary against the principles of natural justice and thereby direct the 1st respondent to reinstate the petitioner into his service with effect from 23.07.2016 with all backwages.

For Petitioner : Mr.K.Munusamy

For Respondents: Mr.K.Dhananjayan,
Special Government Pleader

सत्यमेव जयते
O R D E R

The petitioner has come up with the present Writ Petition, challenging the order of the 1st respondent vide Roc.No.11230/2016/A2, dated 23.07.2016 and for a consequential direction to the 1st respondent to reinstate him in service with effect from 23.07.2016 with all backwages.

2. According to the petitioner, he earlier worked as a Special Tahsildar, Pappireddypatti and thereafter, vide proceedings dated 26.02.2016 of the 1st respondent, he was transferred to the newly established post of Revenue Tahsildar, Nallampalli Taluk. For the allegation that he demanded illegal gratification of Rs.10,000/- for arranging to get the grant of

financial assistance of Rs.1,02,500/- to one Munusamy of Pangu Natham Kottai, the petitioner was placed under suspension by the 1st respondent vide proceedings dated 23.07.2016.

3. It is the further case of the petitioner that one Munusamy lodged a complaint before the 2nd respondent police on 21.07.2016 against one Kavitha, Revenue Inspector, Palayampudhur and one Senthil, working as Assistant in Nallampalli Taluk, Dharmapuri District that the said Kavitha demanded a sum of Rs.20,000/- for arranging to get grant of financial assistance of Rs.1,02,500/- to the complainant. Originally, the case was registered in Crime No.3/AC/2016 for the offence relating under Sections 7 and 13(1)(d) of Prevention of Corruption Act, 1988 against the said Kavitha and Senthil. It is his further case that financial assistance was granted to the said Munusamy on 13.06.2016 and the relevant documents were also signed on the same day itself. While so, there is no necessity for demand of illegal gratification for the work which was already completed. According to the petitioner, when there is no specific mention about him in the said complaint and in the F.I.R., the order of suspension passed against him is totally against the principles of natural justice. Having no other alternative remedy, the petitioner has approached this Court challenging the impugned order with a prayer to reinstate him into service.

4. Today, when the matter was taken up for consideration, learned counsel for the petitioner, by placing reliance on two judgments in the case of Ambigapathy, P.S. Vs. The Director of Public Health & Preventive Medicine, (1991 Writ L.R. 273) and Ajay Kumar Choudhry Vs. Union of India (2015 (2) SCALES 432), submitted that the currency of suspension order should not be extended beyond three months, if within this period, the Memorandum of charges/charge sheet is not served on the delinquent official and if charge memo/charge sheet is served, a reasoned order must be passed for extension of the suspension. Thus, the learned counsel for the petitioner sought for quashing the impugned order and for a direction to the respondents to permit the petitioner to join duty.

5. On the other hand, learned Special Government Pleader, who has taken notice on behalf of the respondents, vehemently opposed to entertain the prayer in the writ petition stating that a criminal case against the petitioner is under investigation and hence, the order of suspension cannot be revoked. Thus, he sought for dismissal of the writ petition.

6. Keeping the submissions made on either side, I have carefully gone through the entire materials available on record.

7. I am of the view that the issue involved in this case has to be decided only based on the decision of the Hon'ble

Supreme Court in the case of Ajay Kumar Choudhry Vs. Union of India, [2015 (2) SCALES 432], wherein it has been held that the currency of suspension order should not be extended beyond three months, if within this period, the Memorandum of charges/ charge sheet is not served on the delinquent official and if charge memo/ charge sheet is served, a reasoned order must be passed for extension of the suspension. Subsequently, the Government of Tamil Nadu has also issued instructions in Letter No.13519/N/2016-1, P & AR (Per.N) Dept, dated 23.07.2015, to all Principal Secretaries to Government, Department of Secretariat and Head of Departments to follow the directions of the Hon'b'le Supreme Court on the limitation period of suspension in letter and spirit.

8. Even in the instant case, the facts of the case would show that the respondents have not passed any reasoned order for extension of suspension in respect of the petitioner herein. The petitioner cannot be kept under prolonged suspension. Further, in the case Ambigapathy, P.S. Vs. The Director of Public Health & Preventive Medicine (1991 Writ L.R. 273), a Division Bench of this Court has held that prolonged suspension is unreasonable and without any justification. Following the above said decision, I am of the opinion that the petitioner herein is entitled to the relief sought for in the writ petition and the impugned order is liable to be quashed.

9. Accordingly, the Writ Petition is allowed and the impugned order dated 23.07.2016 is quashed. The respondents are directed to reinstate the petitioner in any non-sensitive post at a far away place, forthwith. No costs. Consequently, connected W.M.P.No.24627 of 2016 is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

सत्यमेव जयते

Sub Asst. Registrar

To:

1. The District Collector,
Dharmapuri District, Dharmapuri.
2. The Inspector of Police,
Vigilance and Anti Corruption Department,
Dharmapuri District.

+2 cc's to M/s.K.Munusamy, advocate, sr.42817

cp(co)
krd 7/11

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