

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.31599 of 2016
and W.M.P.Nos.27432 and 27433 of 2016

J.Srinivasan

... Petitioner

Vs.

1. The State rep. by the
Secretary to Government,
Rural Development and Panchayat Raj
Department, Fort St. George,
Chennai - 9.
2. The Director of Rural Development
and Panchayat Raj,
Panagal Building, Saidapet,
Chennai - 15.
3. The District Collector,
Krishnagiri District,
Krishnagiri.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of certiorarified mandamus to call for the records relating to the impugned order passed by the third respondent in his proceedings in Roc.No.26813/2014/K1 dated 26.11.2014, quash the same and issue consequential directions to the respondents herein to reinstate the petitioner in service with all consequential benefits.

For Petitioner : Mr.R.Thamaraiselvan

For Respondents : Mr.N.Srinivasan,
Additional Government Pleader

ORDER

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

2. The petitioner has come up with the present writ petition, challenging the impugned order passed by the third respondent in his proceedings dated 26.11.2014 and issue consequential directions to the respondents herein to reinstate him in service with all consequential benefits.

3. It is the case of the petitioner that initially, he was appointed as Junior Assistant in the office of the Block Development Officer, Mathur Block, on 20.11.1990 on compassionate grounds. Later, he was promoted as Assistant on 16.12.1999 and as Extension Officer on 13.12.2006. The said post has been upgraded as Deputy Block Development Officer. After serving in various Panchayat Unions, now the petitioner is working as Deputy Block Development Officer (Audit) in Kaveripattinam Panchayat Union. While so, he was placed under suspension by the proceedings of the third respondent dated 26.11.2014 on the ground that an enquiry into grave charges against him is contemplated. Subsequently, disciplinary proceedings were also initiated containing 12 charges and the petitioner submitted his detailed explanation on 20.5.2015 denying the charges. Thereafter, an Enquiry Officer was appointed to enquire into the matter. Simultaneously, the Commissioner, Bargur Panchayat Union has lodged a complaint dated 28.3.2015 against the petitioner and one M.C.Thirunavukarasu and based on the said complaint, the District Crime Branch, Krisinagiri has registered a criminal case against the petitioner in Crime No.14 of 2015 under Sections 409, 405, 468, 471 and 420 I.P.C. In this connection, he was arrested and subsequently released on bail. The petitioner is under prolonged suspension and no enquiry is conducted till date. In the criminal case also, no charge sheet has been filed. In this regard, the petitioner sent a representation dated 10.6.2016 to the respondents requesting them to revoke the order of suspension. Since the same was not considered so far, left with no other alternative, the petitioner has come up with the present writ petition for the relief set out earlier.

4. Learned counsel appearing for the petitioner submitted that in similar circumstances, this Court, in W.P.No.17478 of 2014 dated 10.3.2015, by relying upon the judgment of the Hon'ble Supreme Court reported in 2015 (2) SCALE 432 - Ajay Kumar Choudhary v. Union of India through its Secretary and another, directed the respondent therein to consider the representation of the petitioner therein. Hence, following the same, similar order could be passed in this writ petition also.

5. I have also heard the learned Additional Government Pleader, who has taken notice on behalf of the respondents.

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

7. The relevant portion of the order dated 10.3.2015 passed by this Court in W.P.No.17478 of 2014 is usefully extracted hereunder:-

" 2. Heard the learned counsel for the petitioner and the learned standing counsel for the respondents.

3. The Supreme Court in *Ajay Kumar Choudhary v. Union of India* through its Secretary and another reported in 2015 (2) SCALE 432 has observed that suspension order should not extend beyond the period of three months.

4. The application submitted by the petitioner for review of suspension was rejected only on the ground that criminal case is pending. In view of the judgment of the Hon'ble Supreme Court cited supra, I am of the view that the matter requires fresh consideration by the first respondent.

5. In the result, the impugned order is set aside and the matter is remitted to the first respondent for fresh consideration. The petitioner is permitted to make a fresh representation. The first respondent is directed to consider the representation on merits and in the light of the observation made by the Hon'ble Supreme Court in the judgment referred to above. Such exercise shall be completed within a period of three months from the date of receipt of representation."

In this case, the petitioner is under suspension for a period of two years. Further, in the criminal case, till date, no charge sheet was filed.

8. In view of the above facts and circumstance of the case, though the petitioner prayed for a larger relief, instead of giving such a positive direction, I am of the opinion, it would be appropriate to direct the respondents to consider the case of the petitioner in the light of the judgment of the Hon'ble Supreme Court reported in 2015 (2) SCALE 432 - *Ajay Kumar Choudhary v. Union of India* through its Secretary and another.

9. Accordingly, without going into the merits of the claim made by the petitioner, the petitioner is directed to give a fresh representation to the third respondent along with a copy of this order, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the third respondent is directed to consider the same and pass appropriate orders, on merits and in accordance with law and also in the light of the judgment of the Hon'ble Supreme Court reported in 2015 (2) SCALE 432 - Ajay Kumar Choudhary v. Union of India through its Secretary and another, within a period of six weeks thereafter. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

sbi

To

1. The Secretary to Government,
Rural Development and Panchayat Raj
Department, Fort St. George,
Chennai - 9.
2. The Director of Rural Development
and Panchayat Raj,
Panagal Building, Saidapet,
Chennai - 15.
3. The District Collector,
Krishnagiri District,
Krishnagiri.

+1cc to Mr.R.Thamaraiselvan, Advocate, S.R.No.51745
+1cc to the Government Pleader, S.R.No.51928

W.P.No.31599 of 2016

KK(CO)
CA(28/09/2016)