

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.31703 of 2016

And

W.M.P.Nos.27506 and 27507 of 2016

G.Mariyappan

... Petitioner

Vs.

The District Collector,
Krishnagiri District,
Krishnagiri.

.... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order of suspension of the petitioner passed by the respondent in his proceedings in Roc.No.4241/2015/K1 dated 14.01.2016, quash the same and consequently direct the respondent to reinstate the petitioner in service with all consequential benefits.

For Petitioner : Mr.R.Thamaraiselvan

For Respondent : Mr.S.Gunasekaran

Additional Government Pleader

O R D E R

The present writ petition has been filed seeking a Certiorarified Mandamus calling for the records relating to the impugned order of suspension of the petitioner passed by the respondent in his proceedings in Roc.No.4241/2015/K1 dated 14.01.2016, quash the same and consequently direct the respondent to reinstate the petitioner in service with all consequential benefits.

2.The petitioner would state that he is working as Deputy Block Development Officer (Panchayats), Bargur Block, Bargur Panchayat Union, Krishnagiri District and has been implicated in a false criminal case in Cr.No.7 of 2016, Samalpatty Police Station. He would further state that his name has not been mentioned in the first information report. However, apprehending that the Police after investigation has sought to

arrest him, surrendered voluntarily before the Judicial Magistrate Court No.II, Krishnagiri on 25.01.2016 and no specific overtact has been attributed against him and he has been arrayed as accused no.3 along with his daughter in law and others. He was remanded to judicial custody on 25.01.2016 and released on conditional bail by the learned Principal Sessions Judge, Krishnagiri vide order dated 18.02.2016, made in CrI.M.P.No.242 of 2016.

3.The petitioner would further state that in the meanwhile, the District Collector, Krishnagiri vide proceedings in Pro.Roc.No.4241/ 2015/K1 dated 14.01.2016, placed him under suspension with immediate effect alleging that the petitioner had indulged in a murder case, but till date, charge sheet has not been filed in the criminal case registered against him.

4.The petitioner would further state that a charge memo dated 01.04.2016, has been issued in the disciplinary proceedings by the respondent, calling for the petitioner to submit his explanation. The petitioner submitted a representation dated 26.04.2016, requesting the respondent to furnish certain documents so as to enable him to submit his explanation. Since it evoked no response, the petitioner sent another reminder dated 29.04.2016, to the respondent to furnish the said documents. Even thereafter, there is no response and since the petitioner is under prolonged suspension, he has now come forward with the present writ petition seeking to quash the suspension order.

5.It is the submission of the learned counsel appearing for the petitioner that the Hon'ble Supreme Court of India in its decision reported in 2015 (2) SCALES 432 (Ajay Kumar Choudhry Vs. Union of India), has held that the currency of suspension order should not be extended beyond three month, if within this period, the Memorandum of charges / charge sheet is not served on the delinquent official and if charge memo / sheet is served, a reasoned order must be passed for extension of the suspension. Pursuant to this, the Government of Tamil Nadu have also issued instructions in Letter No.13519/N/2016-1, P & AR (Per.N) Department dated 23.07.2015, to all Principal Secretaries to Government, Department of Secretariat and Heads of Departments to follow the directions of the Hon'ble Supreme Court on the limitation period of suspension in letter and spirit and prayed for quashing of the impugned suspension order.

6.The learned Additional Government Pleader appearing for the respondent opposed to quash the memo of the impugned order of suspension stating that the petitioner was involved in a murder case. However, the learned Additional Government Pleader submitted that if a representation is given by the petitioner, the same will be considered on merits and in accordance with law.

7.This Court heard the submissions of the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondent.

8.Considering the submissions made on either side, this Court directs the petitioner to give a fresh representation to the respondent within a period of one week from the date of receipt of a copy of this order and the respondent on receipt of the same, is directed to consider the said representation, in the light of the decision of the Hon'ble Supreme Court of India reported in 2015 (2) SCALES 432 (Ajay Kumar Choudhry Vs. Union of India) and pass appropriate orders, on merits and in accordance with law, within a period of four weeks thereafter.

9.It is made clear that this Court has not expressed any of its opinion with regard to the merits of the claim made by the petitioner and it is for the respondent to decide the issue, purely on merits.

10.The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

The District Collector,
Krishnagiri District,
Krishnagiri.

+lcc to the Government Pleader Sr.52813
+lcc to Mr.R.Thamaraiselvan, Advocate Sr.52641

W.P.No.31703 of 2016
And
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27507 of 2016

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srg 07/10/2016