

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.32627 of 2016

R.Padmavathi

...Petitioner

vs.

The Deputy Director of Health Services,
Tirupathur Health Unit District,
Opp. Municipality, Tirupathur,
Vellore District.

...Respondent

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the respondent to consider and pass orders on merits by disposing the written representation made by the petitioner on 16.06.2016 within a stipulated time fixed by this Court.

For Petitioner : Mr.C.Prakasam

For Respondent : Mr.S.Gunasekaran,
Addl. Govt. 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 for Mandamus, directing the respondent to consider and pass orders on merits by disposing of the written representation made by the petitioner on 16.06.2016 within a stipulated time fixed by this Court.

3. It is the case of the petitioner that when she was working as Village Health Nurse in the Pallavalli Health Sub Centre and holding additional charge of Madapalli Health Sub Centre, she was falsely implicated in a Vigilance Case that she received Rs.1,500/- as bribe from one Muniyappan and she was arrested and the respondent herein suspended her from service by an order dated 24.12.2014. The petitioner is under prolonged

suspension and no enquiry is conducted till date and the defacto complainant also passed away. In the criminal case also, no charge sheet has been filed. In this regard, the petitioner sent a representation dated 16.6.2016 to the respondent requesting him 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 respondent.

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. सत्यमेव जयते

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 one and a half 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, I am of the opinion that it would be appropriate to direct the respondent 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 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 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.
tsi

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Deputy Director of Health Services,
Tirupathur Health Unit District,
Opp. Municipality, Tirupathur,
Vellore District.

+ 1 cc to Mr.C.Prakasam, Advocate Sr 53428
+ 1 cc to The Govt.Pleader, Sr 53493

KR/26/10/16

W.P.No.32627 of 2016