

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.36476 of 2016

L.Felix Reginald

...Petitioner

vs.

The Inspector of Labour,
Coimbatore.

...Respondent

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of certiorari, calling for the records relating to the respondent's impugned order No.A/8251/2015, dated 14.10.2015, to quash the same.

For Petitioner : Mr.L.Chandrakumar

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

ORDER

Seeking to quash the impugned order passed by the respondent vide proceedings in No.A/8251/2015, dated 14.10.2015, the petitioner has come up with this Writ Petition.

2. It is the case of the petitioner that while he was working as an Assistant Inspector of Labour, a Memo was served on him on 20.01.2015 calling upon him to explain as to why disciplinary proceedings need not be initiated against him. In the said Memo, it came to be alleged that the petitioner failed to collect compounding fee of 5 cases against Traders, who have not paid compounding fee. As the same was served after transfer from Tirupur and he was not aware of the documents etc., he sought time for clarification of records and to submit his explanation. Immediately, by an order dated 03.03.2015, the

Deputy Commissioner of Labour, Coimbatore placed the petitioner under suspension.

3. Challenging the said order of suspension, the petitioner preferred a Writ Petition in W.P.No.6912 of 2015, and this Court, by an order dated 12.03.2015, granted interim stay of the suspension order. The respondent/Deputy Commissioner of Labour, Coimbatore filed a very detailed counter affidavit and sought for vacation of the interim order. When the said Writ Petition was taken up for final disposal on 30.09.2015, this Court, after hearing the learned counsel on either side, disposed of the Writ Petition. Relevant portion of the said order reads thus:

"Per contra, Mr.V.Subbiah, learned Special Government Pleader would submit that how charge memo has been issued to the petitioner on 27.07.2015 framing charges against him and citing the pendency of the writ petition, the petitioner is deliberately delaying the process and prays for dismissal of the writ petition. It is further submitted by the learned Special Government Pleader that pursuant to the interim order passed by this Court, the petitioner has been reinstated into service and in the event of the petitioner co-operating for expeditious conclusion of the departmental enquiry, he would not be again placed under suspension.

Though the petitioner prayed for a larger relief, this Court, in the light of the above facts and circumstance, directs the petitioner to co-operate with the Disciplinary Authority for early conclusion of the disciplinary proceedings and the Disciplinary Authority is also directed to afford reasonable opportunity to the petitioner in accordance with law and conclude the disciplinary proceedings initiated against him as expeditiously as possible and not later than three months from the date of receipt of a copy of this order.

4. Before the petitioner could get a copy of the said order, the Deputy Commissioner of Labour, Coimbatore is said to have filed a criminal complaint and an F.I.R.No.10/2015 dated 14.08.2015 came to be registered and the petitioner was detained in custody with effect from 11.10.2015, despite the fact that

the respondent through his Counsel reporting before this Court that the petitioner would not be again placed under suspension.

5. In the meantime, the Disciplinary proceedings did commence and the petitioner extended his fullest co-operation. However, the petitioner filed W.P.No.21679 of 2016 seeking furnishing of all the documents relied upon for affording reasonable opportunity, wherein, in W.M.P.No.18528 of 2016, there has been an interim order not to submit the enquiry report and the same is pending. Left with no other alternative, the petitioner has again approached this Court by way of the present Writ Petition, challenging the suspension order dated 14.10.2015.

6. When the matter is 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 in the case of 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 is served, a reasoned order must be passed for extension of the suspension. In the instant case, the petitioner has been placed under suspension for a long period without any reason. Thus, the learned counsel for the petitioner sought for quashing the impugned orders and for a direction to the respondent to permit the petitioner to join duty.

7. Learned Special Government Pleader submitted that the petitioner herein had failed to collect compounding fee from Traders and if the petitioner is allowed to rejoin duty, the Government's objective of maintaining probity in public administration will be belittled. Thus, the learned Special Government Pleader sought for dismissal of the writ petition.

8. Heard the learned counsel on either side and perused the materials available on record.

9. I am of the opinion 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 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/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'ble Supreme Court on the limitation period of suspension, in letter and spirit.

10. Even in the instant case, it is seen that the respondent has not passed any reasoned order for extension of suspension in respect of the petitioner herein. The petitioner cannot be kept under prolonged suspension, as a Division Bench of this Court in the case of Ambigapathy, P.S. Vs. The Director of Public Health & Preventive Medicine [1991 Writ L.R. 273], has held that the prolonged suspension is unreasonable and without any justification. Following the ratio laid down in the above said decisions, this Court is 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.

11. Accordingly, the Writ Petition is allowed and the impugned order dated 14.10.2015 passed by the respondent is quashed. The respondent is directed to reinstate the petitioner in any non-sensitive post where the Department feels that the petitioner can be accommodated. No costs. Consequently, connected W.M.P.No.31389 of 2016 is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

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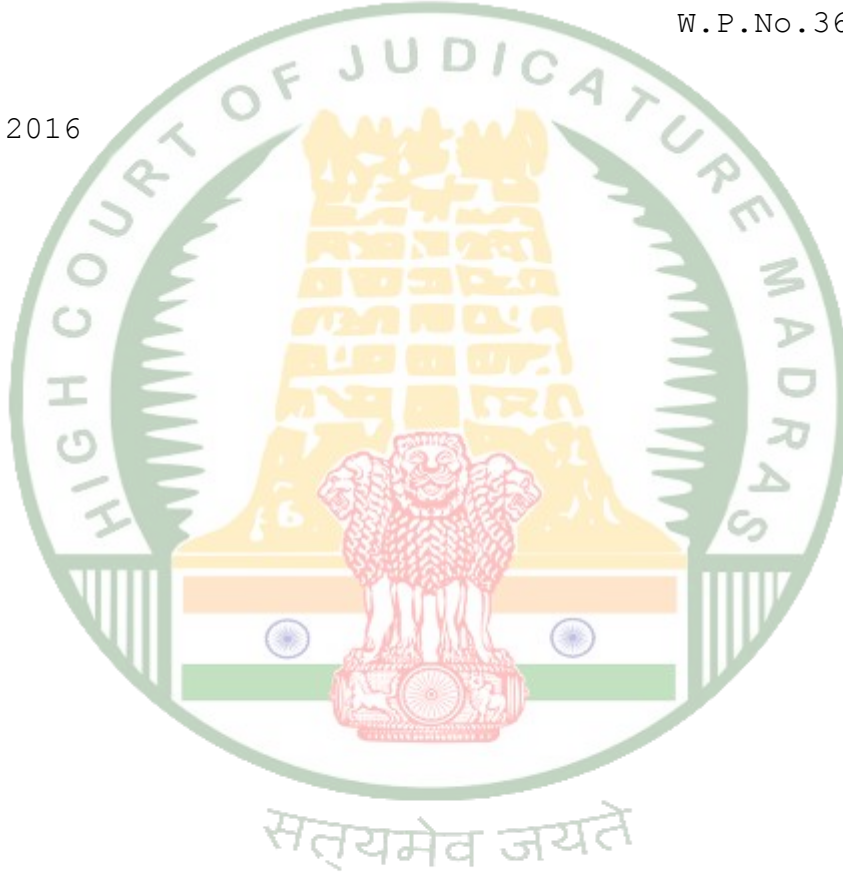
The Inspector of Labour,
Coimbatore.

+1CC to The Government Pleader, SR 70089

+1CC to Mr.L.Chandrakumar, Advocate, SR 69715

W.P.No.36476 of 2016

VD (CO)
PSI 30.12.2016



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