

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2016

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THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.39507 of 2016

and W.M.P.No.33792 of 2016

D.Kavitha

... Petitioner

Vs

1 The Secretary to Government of
Tamil Nadu Revenue Department Fort St.
George Chennai-9.

2 The District Collector
Dharmapuri District Dharmapuri

3 The Revenue Divisional Officer
Dharmapuri

... 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 dated 23.7.2016 made in ROC.11230/2016/A2 passed by the second respondent and to quash the same consequently direct the second respondent to reinstate the petitioner in service with all monetary benefits.

For Petitioner : Mr.S.Angamuthu
For Respondents : Mr.S.N.Parthasarathy

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 order of the second respondent dated 23.7.2016 made in ROC.11230/2016/A2 and consequently, to direct the second respondent to reinstate her into service with all monetary benefits.

3. It is the case of the petitioner that she was appointed as Village Administrative Officer by the proceedings of the third respondent dated 8.4.2012. Thereafter, she appeared in the Group-II Examinations and was selected and appointed as Revenue Assistant in the Tamil Nadu Ministerial Service at Dharmapuri, by proceedings dated 4.1.2013. During the course of her employment, when she was working at the office of Tahsildar, Nallampalli, one Munusamy made an application for grant of death benefits under the social protection scheme through his mother, which has been processed and forwarded to the Tahsildar, Nallampalli on 22.4.2016 itself. While so, on 22.7.2016, the said Munusamy came to her seat and handed over the application along with a sum of Rs.10,000/- asking her to hand over the same to the Tahsildar and she has also handed over the same to the Tahsildar. Immediately, the police officials belonging to Vigilance and Anti Corruption department rushed to the office and recovered the amount from the Tahsildar and registered a case in Crime No.3/AC/2016 for the alleged offence punishable under Sections 7 and 13(1)(d) of Prevention of Corruption Act as against the petitioner and two others. Subsequently, the petitioner was arrested and released on bail. Consequent to that, the second respondent passed the impugned order of suspension on 23.7.2016 under Rule 17(e)(1)(ii) of Tamil Nadu Civil Services (Discipline and Appeal) Rules, which is arbitrary, discriminatory and non-application of mine, since the amount was not seized from her. Hence, challenging the same, the petitioner has come up with the present writ petition for the relief set out earlier.

4. Today, when the matter was taken up for consideration, 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 counsel, 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."

8. In view of the above facts and circumstance of the case 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 projected by the petitioner, this Court directs the petitioner to give a detailed representation to the second 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 second 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 petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sbi

To

- 1 The Secretary to Government of
Tamil Nadu Revenue Department Fort St.
George Chennai-9.
- 2 The District Collector
Dharmapuri District Dharmapuri
- 3 The Revenue Divisional Officer
Dharmapuri

+1cc to the Government Pleader, S.R.No.65290

rsk(CO)
md(01/12/2016)

W.P.No.39507 of 2016

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