

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.39574 of 2016

R.Ramesh

... Petitioner

vs.

The Tahsildar,
Taluk Office,
Vikravandi,
Villupuram District.

... Respondent

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of certiorarified mandamus, calling for the records on the file of the respondent issued in A5/3536/2015, dated 15.07.2015 and quash the same with the consequential direction, directing the respondent to reinstate the petitioner into service with all benefits.

For Petitioner : Mr.V.Ravikumar

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

O R D E R

The petitioner has come up with this Writ Petition seeking to quash the proceedings of the respondent in A5/3536/2015, dated 15.07.2015 and for a consequential direction to the respondent to reinstate him into service with all benefits.

2. According to the petitioner, he was appointed as a Village Assistant after his name was sponsored through the District Employment Exchange, Villupuram on 28.01.2014. By virtue of the impugned proceedings of the respondent in A5/3536/2015, dated 15.07.2015, the petitioner was placed under suspension for the investigation of the criminal case registered in V & AC Crime No.03/2015 u/s 7 & 13(2), r/w 13(1)(d) of Prevention of Corruption Act, 1988 that he demanded and obtained a sum of Rs.2,500/- as bribe from one Thiru.Ayyanar, S/o.Natarajan, for making arrangements to transfer the name in Patta for the land purchased by the complainant.

3. It is the case of the petitioner that he is no way

connected with the issuance of Patta and the competent authority to issue patta is the Tahsildar. His grievance is that though more than 15 months have lapsed, the order of suspension is not revoked by the authorities. Hence, having no other alternative, he is before this Court.

4. 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 order and for a direction to the respondent to permit the petitioner to join duty.

5. Learned Special Government Pleader submitted that the petitioner herein had indulged in the act of demand and acceptance of bribe 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.

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

7. 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.

8. 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.

9. 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 in the writ petition and the impugned order is liable to be quashed.

10. Accordingly, the Writ Petition is allowed and the impugned order dated 15.07.2015 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 as per the judgment rendered in Ajay Kumar Choudhary's case (cited supra). No costs. Consequently, connected W.M.P.Nos.33863 and 33864 of 2016 are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

aeb

To:

The Tahsildar,
Taluk Office,
Vikravandi,
Villupuram District.

+1cc to V. Ravikkumar, Advocate Sr.No.67368 (23/12/2016)

kgk (CO)
md (20/12/2016)

W.P.No.39574 of 2016