

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.39575 of 2016

K.V.Velu

... Petitioner

vs.

The District Revenue Officer,
O/o.The District Revenue Officer,
Villupuram,
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 of the proceedings of the respondent issued in Ref.R.C.A2/13386/2015, dated 18.06.2015 and quash the same with the consequential direction, directing the respondent to reinstate the petitioner into service with all benefits.

For Petitioner : Mr.V.Ravikkumar

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

O R D E R

Seeking to quash the order passed by the respondent vide proceedings in Ref.R.C.A2/13386/2015, dated 18.06.2015 and for a consequential direction to the respondent to reinstate him into service with all benefits, the petitioner has come up with this Writ Petition.

2. According to the petitioner, he was selected by the Tamil Nadu Public Service Commission and appointed as an Assistant on 08.07.2014. While so, by virtue of the impugned proceedings of the respondent in Ref.R.C.A2/13386/2015, dated 18.06.2015, the petitioner was placed under suspension for the investigation of a criminal case registered in V & AC Crime No.02/2015 u/s 7 of Prevention of Corruption Act, 1988 for demanding and accepting a sum of Rs.3,500/-as bribe from one Thiru.Rajesh, S/o.Radhakrishnan, for making arrangements to issue Pawn Broker Shop Licence to the

complainant.

3. It is the case of the petitioner that he is no way connected with the issuance of Pawn Broker Shop Licence and that the competent authority to issue Pawn Broker Shop Licence is Tahsildar. He further stated that till date, no charge sheet is filed and that even after a lapse of 16 months, the order of suspension is not revoked by the authorities. Hence, challenging the order of suspension, the petitioner has approached 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 orders 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 demanding and receiving bribe of a sum of Rs.3,500/- for making arrangements to issue Pawn Broker Shop Licence to the complainant 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 for 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 18.06.2015 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.33865 and 33866 of 2016 are closed.

aeb

Sd/-

Assistant Registrar (CS-)

/TRUE COPY/

Sub-Assistant Registrar

To:

The District Revenue Officer,
O/o.The District Revenue Officer,
Villupuram,
Villupuram District.

+1 CC Government Pleader SR.No.75087

+1 CC Mr.V.Ravikkumar Advocate SR.No.69463

W.P.No.39575 of 2016

VD [CO]

MSI 04/01/2017