

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.43042/2016 & WMP.Nos.36889 & 36890/2016

Y.Combaiyan

..Petitioner

Vs

The District Forest Officer
Sathyamangalam Division,
Sathyamangalam, Erode District. ... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified mandamus calling for the records relating to the respondent in his proceedings S.O.No.95/2010/E2 dated 23.06.2010 and quash the same and consequently, direct the respondent to reinstate the petitioner into service.

For Petitioner : Mr.N.Umapathi
For Respondent : Mr.N.Inbanathan, GA

ORDER

By consent, the writ petition is taken up for final disposal. Mr.N.Inbanathan, learned Government Advocate accepts notice on behalf of the respondent.

2 The petitioner while working as the Forest Guard, was involved in the commission of the offence of the receipt of bribe amount, which resulted in the registration of the case by the Vigilance and Anti Corruption Detachment, Erode in Cr.No.2/AC/2010/ER/SU on 21.06.2010 and subsequently, he was sent to judicial custody on 22.06.2010. The petitioner came to be enlarged on bail after 48 hours and therefore, the respondent, vide impugned order dated 23.06.2010 has placed him under suspension and challenging the legality of the same, the

petitioner is before this Court by way of filing this writ petition.

3 The learned counsel for the petitioner would submit that in the light of the Judgment of the Hon'ble Supreme Court reported in 2015 [7] SCC 291 [AJAY KUMAR CHOUDHARY V. UNION OF INDIA THROUGH ITS SECRETARY AND ANOTHER] , the suspension order passed against the petitioner is to be reviewed for the reason that he is yet to be issued with the charge memo and prays for appropriate orders.

4 Heard the submissions of Mr.N.Inbanathan, learned Government Advocate appearing for the respondent.

5 It is relevant to refer to paragraph 21 of the judgment of the Hon'ble Apex Court in Ajay Kumar Choudhary's case [cited supra], which reads thus:-

"21.We, therefore, direct that the currency of a suspension order should not extend beyond three months if within this period the memoandum of charge/charge sheet is not served on the delinquent officer/employee ; if the memorandum of charges/charge-sheet is served, a reasoned order must be passed for the extension of the suspension. As in the case in hand, the Government is free to transfer the person concerned to any department in any of its offices within or outside the State so as to sever any local or personal contact that he may have and which he may misuse for obstructing the investigation against him. The Government may also prohibit him from contacting any person, or handling records and documents till the stage of his having to prepare his defence. We think this will adequately safeguard the universally recognised principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognise that the previous Constitution Benches have been reluctant to quash proceedings on the grounds of delay, and to set time-limits to their duration. However, the imposition of a limit on the period of suspension has not been discussed in prior case law, and would not be contrary to the interests of justice. Furthermore, the direction of the Central Vigilance Commission that pending a

criminal investigation, departmental proceedings are to be held in abeyance stands superseded in view of the stand adopted by us.

6 The Personnel Administrative Reforms Department of the Government of Tamil Nadu, has also issued administrative instructions in the form of Letter [MS] No.43/N/2015-13 dated 26.04.2016, clarifying the position in the light of the above judgment.

7 Though the petitioner has prayed for a larger relief, this Court, in the light of the facts and circumstances and without going into the merits of the same, directs the respondent to review the order of suspension passed against the petitioner in the light of the above cited judgment and the administrative instructions dated 26.04.2016 [referred to above] and pass orders within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

8 The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP

To

The District Forest Officer
Sathyamangalam Division,
Sathyamangalam, Erode District.

+1cc to Mr.N. Umapathi*, Advocate, S.R.No.72876
+1cc to the Spl.Government Pleader (Forest, S.R.No.72677

sv(CO)
md(30/12/2016)

W.P.No.43042/2016