

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
W.P.No.43779/2016 & WMP.Nos.37593 & 37594/2016

S.Samundeeswaran

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Petitioner

Vs

The Divisional Engineer,
Highways Department, Krishnagiri,
Krishnagiri 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 in impugned order of suspension in Proc.No.Che.Mu.Ka.No.1467/2010/B5 dated 16.09.2010 on the file of the respondent herein and quash the same as illegal and direct the respondent herein to reinstate the petitioner into service with all service benefits.

For Petitioner : Mr.K.Nagarajan

For Respondent : Mr.P.Sanjay Gandhi, AGP

ORDER

By consent, the writ petition is taken up for final disposal. Mr.P.Sanjay Gandhi, learned Additional Government Pleader accepts notice on behalf of the respondent.

2. The petitioner was employed as Road Inspector in the office of the Assistant Engineer, Highways Department, Mathur, Krishnagiri District, and according to him, a student studying in +2, at Anna Arivagam School, Pochampalli, was run over by a School Bus and he died in the said accident and on hearing the same, the village people gathered before the School and ransacked the school and also damaged the properties. The School Authorities in this regard, gave a complaint before the Inspector of Police, Pochampalli Police Station and a case was registered in Cr.No.419/2010 on 13.09.2010 against the petitioner and others for the commission of the offences u/s.147, 148, 436, 468 and 506[ii] IPC read with 3[1] of the Tamil Nadu Public Properties [Damage and Loss] Act, 1992. The petitioner was arrested on 14.09.2010 and later on, he was released on bail. Since the period of incarceration exceeded 48 hours, he was placed under suspension on 16.09.2010 and the petitioner made a challenge to the said order by filing

WP.No.14521/2011 and it was dismissed as withdrawn. The petitioner also filed Crl.OP.No.29158/2014 for expediting the investigation in the above said crime number and despite the orders passed, it has not been complied with on time and subsequently, a charge sheet has been filed in the preliminary stage and it is pending on the file of the jurisdictional Court. The grievance expressed by the petitioner is that though he was placed under suspension as early as on 16.09.2010, the charge memo is yet to be issued and it is the submission of the learned counsel for the petitioner that the judgment rendered by the Hon'ble Apex Court reported in 2015 [7] SCC 291 [AJAY KUMAR CHOUDHARY V. UNION OF INDIA THROUGH ITS SECRETARY AND ANOTHER], the charge memo is to be filed within a period of three months failing which, the order of suspension is to be revoked and therefore, prays for appropriate orders.

3. Per contra, Mr.P.Sanjay Gandhi, learned Additional Government Pleader appearing for the respondent would submit that since the period of incarceration exceeded 48 hours and taking into consideration, nature and gravity of the allegation, the petitioner has been placed under suspension and the Disciplinary Proceedings will be expedited.

4. This Court has considered the rival submissions and also perused the materials placed before it.

5. The Personnel and Administrative Reforms Department of the Government of Tamil Nadu has also issued administrative instructions in Letter [Ms] No.43/N/2015-3 dated 26.04.2016 for dealing with the cases wherein, the criminal prosecution is launched. The petitioner, in this regard, has submitted a representation dated 29.01.2016, praying for reviewing / revoking the order of suspension.

6. This Court, in the light of the above facts and circumstances, permits the petitioner to submit one more representation to the respondent along with a copy of this order as well as a copy of the earlier representation within a period of two weeks from the date of receipt of a copy of this order and the respondent, on receipt of the same, is directed to consider the said representation on merits and in accordance with law and pass orders within a further period of four weeks thereafter and communicate the decision taken, to the petitioner.

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

Sd/-
Assistant Registrar

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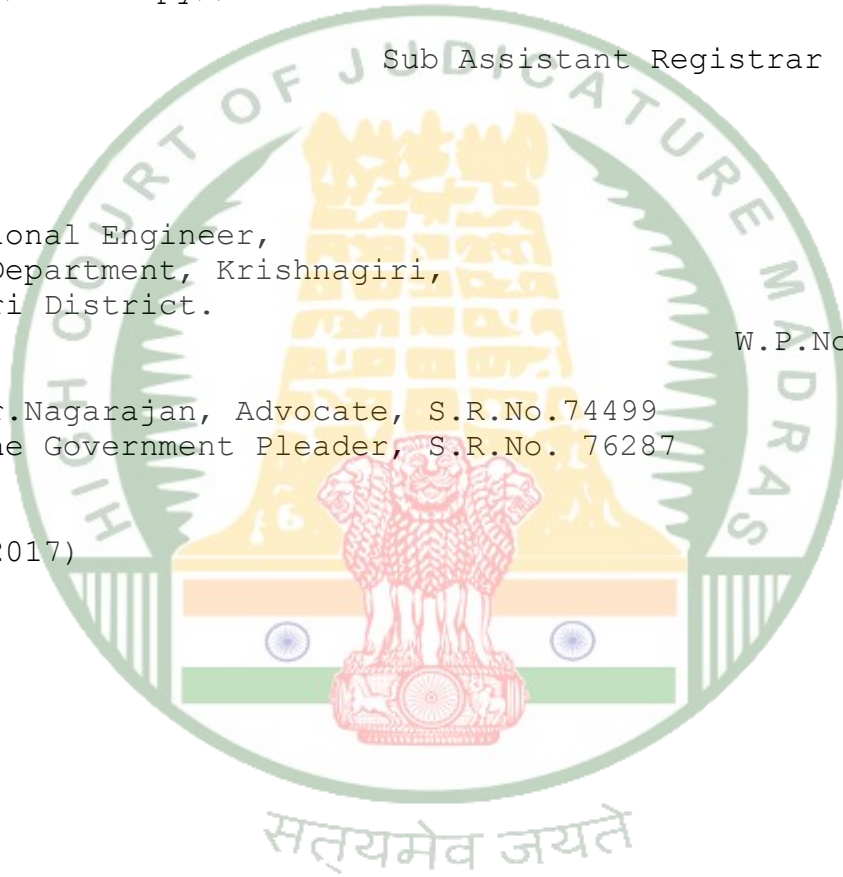
Sub Assistant Registrar

AP
To
The Divisional Engineer,
Highways Department, Krishnagiri,
Krishnagiri District.

W.P.No.43779/2016

+1cc to Mr.Nagarajan, Advocate, S.R.No.74499
+1cc to the Government Pleader, S.R.No. 76287

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