

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.8033 of 2016
and
W.M.P.Nos.7135 & 7136 of 2016

S.Srinivasan

... Petitioner

Vs.

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

... Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the proceedings of the respondent issued in A/5/3575/2015, dated 15.07.2015 and to 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 respondents : Mr.S.Gunasekaran,
Additional Government Pleader

ORDER

This writ petition has been filed by the petitioner praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the proceedings of the respondent issued in A/5/3575/2015, dated 15.07.2015 and to quash the same with the consequential direction, directing the respondent to reinstate the petitioner into service with all benefits.

2.It is stated by the petitioner that his father was working as a Village Menial and his father died on 07.04.2010. After his father's demise, the petitioner was appointed as Village Administrative Officer on 25.08.2014 on Compassionate Ground Appointment by the authorities. From the date of his appointment, he was discharging his duties sincerely and

efficiently. While so, by the impugned order dated 15.07.2015, the petitioner was placed under suspension, stating that a criminal case was registered in Crime No.3/2015 under Sections 7 & 13(2) r/w 13(1)(d) of the Prevention of Corruption Act on the allegation of demand and obtained a sum of Rs.2,500/- as bribe from one Ayyanar, for making arrangements to transfer the name in the Patta for the land purchased by the said person. In the said criminal case, charge sheet has not been filed so far. The petitioner is under prolonged suspension for more than 1 year. Hence, the petitioner has come forward with the present writ petition to quash the impugned suspension order.

3. When the matter is taken up for consideration, the learned senior counsel for the petitioner, by placing reliance on two judgments reported in 1991 Writ L.R. 273 [Ambigapathy, P.S. Vs. The Director of Public Health & Preventive Medicine] and 2015 (2) SCALES 432 [Ajay Kumar Choudhry Vs. Union of India], submitted that the currency of suspension order should not be extended beyond three months, if within this period, the Memorandum of charges/chargesheet 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. In the instant case, the petitioner has been placed under suspension for a long period without any reason. Thus, the learned senior counsel for the petitioner sought for quashing the impugned order and for a direction to the respondent to permit the petitioner to join duty.

4. The learned Additional Government Pleader, by filing a detailed counter, would submit that the petitioner herein had indulged in the act of demand and acceptance of bribe; if the petitioner is allowed to rejoin duty, the Government's objective of maintaining probity in public administration will be belittled. Thus, the learned Additional Government Pleader sought for dismissal of the writ petition.

5. Heard both sides and perused the materials available on record.

6. 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 2015 (2) SCALES 432 [Ajay Kumar Choudhry Vs. Union of India], 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/chargesheet 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'b'le Supreme Court on the limitation period of suspension in letter and spirit.

7. Even in the instant case, the facts of the case could show that the respondents have not passed any reasoned order for extension of suspension in respect of the petitioner herein. The petitioner cannot be kept under prolonged suspension. Further, in the case of Ambigapathy, P.S. Vs. The Director of Public Health & Preventive Medicine, reported in 1991 Writ L.R. 273, a Division Bench of this Court has held that the prolonged suspension is unreasonable and without any justification. Following the above said decision, I am of the opinion, the petitioner herein is entitled to the relief sought for in the writ petition and the impugned order is liable to be quashed.

8. Accordingly, the writ petition is allowed and the impugned order is quashed. The respondents are directed to reinstate the petitioner in any non-sensitive post at a far away place forthwith. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ssv

To

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

+1cc to Mr.V.Ravikkumar, Advocate, S.R.No.54635

W.P.No.8033 of 2016
and

W.M.P.Nos.7135 & 7136 of 2016

SV(CO)
CA(06/10/2016)