



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.12.2016

CORAM :

THE HONOURABLE DR.JUSTICE S.VIMALA

Writ Petition (MD) No.15093 of 2015

and

MP(MD)Nos.1 and 2 of 2015

N.Pattathaiyan

.... Petitioner

Vs.

1.The District Collector,
Collectorate,
Dindigul,
Dindigul District.

2.The Revenue Divisional Officer,
Kodaikanal,
Dindigul District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records pertaining to the impugned order of Suspension in Roc.No.2725/2014-A1 dated 12.09.2014 on the file of the Respondent No.2 and quash the same as illegal and pass other orders as this Court may deem fit.

For Petitioner

: Mr.G.Ramanan

For Respondents

: Mr.A.Muthukaruppan

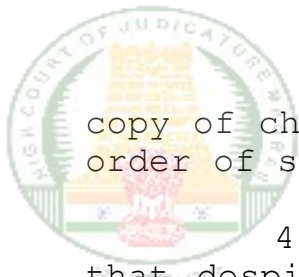
Additional Government Pleader

ORDER

The impugned order of suspension dated 12.09.2014 is under challenge in this writ petition.

2.Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

3.According to the petitioner, he was appointed as the Village Administrative Officer on 10.03.2008 and he is working at Vadagounji Village from 01.07.2014. While so, he was placed under suspension from 12.09.2014 on the ground that a criminal case has been registered against him. The allegation against the petitioner is that he demanded a sum of Rs.3,000/- from one Maruthamuthu, for recommending to get 3 phase EB connection and also for issuance of



copy of chitta and adangal sketch. Pursuant to that, this impugned order of suspension has been issued.

4. The learned counsel for the petitioner would submit that despite expiry of two years period, no charge memo has been issued and no reason has been adduced for extension of the suspension order.

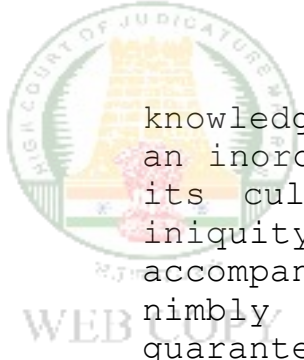
5. Placing reliance upon the judgment of the Hon'ble Supreme Court in the case of **Ajay Kumar Choudhary Vs. Union of India (UOI) and Ors. [2015 (3) CTC 119]**, the learned counsel for the petitioner pointed out that prolonged suspension without assigning any reason for extension is illegal. It is relevant to extract the following paragraphs of the said judgment.

"8. The learned Senior Counsel for the appellant, however, has rightly relied on a series of judgments of this Court, including O.P. Gupta Vs. Union of India, (1987) 4 SCC : 1987 SCC (L&S) 400 : (1987) 5 ATC 14, where this Court has enunciated that the suspension of an employee is injurious to his interests and must not be continued for an unreasonably long period; that, therefore, an order of suspension should not be rightly passed.

9. Our attention has also been drawn to K. Sukhendar Reddy Vs. State of A.P., (1999) 6 SCC 257 : 1999 SCC (L&S) 1088, which is topical in that it castigates selective suspension perpetuated indefinitely in circumstances where other involved persons had not been subjected to any scrutiny. Reliance on this decision is in the backdrop of the admitted facts that all the persons who have been privy to the making of the office notes have not been proceeded against departmentally..

11. Suspension, specially preceding the formulation of charges, is essentially transitory or temporary in nature, and must perforce be of short duration. If it is for an indeterminate period or if its renewal is not based on sound reasoning contemporaneously available on the record, this would render it punitive in nature. Departmental/disciplinary proceedings invariably commence with delay, are plagued with procrastination prior and post the drawing up of the memorandum of charges, and eventually culminate after even longer delay.

12. Protracted periods of suspension, repeated renewal thereof, have regrettably become the norm and not the exception that they ought to be. The suspended person suffering the ignominy of insinuations, the scorn of society and the suspension of his department, has to endure this excruciation even before he is formally charged with some misdemeanour, indiscretion or offence. His torment in his



knowledge that if and when charged, it will inexorably take an inordinate time for the inquisition or inquiry to come to its culmination, that is, to determine his innocence or iniquity. Much too often this has now become an accompaniment to retirement. Indisputably, the sophist will nimbly counter that our Constitution does not explicitly guarantee either the right to a speedy trial even to the incarcerated, or assume the presumption of innocence to the accused. But we must remember that both these factors are legal grounds norms, are inextricable tenets of Common Law Jurisprudence, antedating even the Magna Carta of 1215, which assures that — We will sell to no man, we will not deny or defer to any man either justice or right." In similar vein the Sixth Amendment to the Constitution of the United States of America guarantees that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial.

13. Article 12 of the Universal Declaration of Human Rights, 1948 assures that:

"12. No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks."

14. We, therefore, direct that the currency of a Suspension Order should not extend beyond three months if within this period the Memorandum of Charges/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 concerned person 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 contracting 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 recognized principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognize that 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."

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21. We, therefore, direct that the currency of a suspension order should not extend beyond three months if within this period the memorandum of charges/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 superseded in view of the stand adopted by us."

6. Under such circumstances, this writ petition is allowed and the order of suspension dated 12.09.2014 is quashed and the respondents are directed to post the petitioner in a place where he cannot have access to the documents relating to this case. No costs. Consequently, MP(MD)Nos.1 & 2 of 2015 are closed.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar



To

1.The District Collector,
Collectorate,
Dindigul,
Dindigul District.

2.The Revenue Divisional Officer,
Kodaikanal,
Dindigul District.

+1 cc to MR.G.RAMANAN, Advocate SR.No.78247

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SMA/SS-2-KSM/25.01.2017:5P/4C

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