

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.5095/2017 & WMP.No.5396/2017

Mr.J.Durairaj

..

Petitioner

Vs.

The Inspector General of Police,
Crime Branch, CID,
Chennai - 600 032.

..

Respondent

Writ petition filed under Article 226 of the Constitution of India, praying for a writ of certiorarified mandamus, to call for the records in C.No.F3/003867/2013 / D.O.No.245/2013 dated 7.6.2013 on the file of Respondent herein and quash the same as illegal and direct the Respondent to reinstate the petitioner into service with back wages and attendant benefits to secure the ends of justice.

For Petitioner : Mr. R.Sankarasubbu
For Respondent : Mr.R.A.S.Senthilvel, AGP

ORDER

By consent, the writ petition is taken up for final disposal. Mr.R.A.S.Senthilvel, learned Additional Government Pleader accepts notice on behalf of the respondent.

2 The petitioner, while working as Junior Assistant in the Crime Branch CID, Chennai, was visited with criminal prosecution in the form of Cr.No.2/2013 registered by CBCID, Metro Wing, for the alleged commission of the offences u/s.419, 384 read with 511 IPC.

3 The petitioner was arrested on 06.06.2013 and remanded to judicial custody till 20.06.2013 and later on, came out on bail. The respondent, vide impugned order dated 07.06.2013, has taken note of the registration of the case as well as his incarceration and placed him under suspension and challenging legality of the order, the petitioner came forward to file this writ petition.

4 Mr.R.Sankarasubbu, learned counsel for the petitioner would vehemently contend that though the order of suspension came to be passed as early as on 07.06.2013 and that the charge memo dated 23.06.2016 has also been issued to

the petitioner, no progress is taking place either in the criminal prosecution or in the Departmental proceedings and in the light of the decision rendered by the Hon'ble Apex Court of India in *Ajay Kumar Choudhary Vs. Union of India through its Secretary and another* reported in 2015 [7] SCC 291, the order of suspension passed against the petitioner, is liable to be revoked and in this regard, the petitioner has also submitted a representation dated 07.11.2016 through proper channel and since the said representation also has not been given disposal, the petitioner is constrained to approach this Court, by filing the present writ petition.

5 Per contra, Mr.R.A.S.Senthilvel, learned Additional Government Pleader appearing for the respondent would submit on instructions, that the petitioner is facing series of charges and therefore, he was arrested and placed under deemed suspension and it is also followed by a charge memo and unless and until the proceedings are culminated, the petitioner, as a matter of right, cannot seek for revocation/reviewing the order of suspension and prays for dismissal of the writ petition.

6 The Court has considered the rival submissions and also perused the materials placed before it.

7 The Hon'ble Supreme Court of India, in the above cited decision, has considered the issue relating to the prolonged suspension and held 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."

8 The Personnel and Administrative Reforms Department of the Government of Tamil Nadu, after taking note of the above cited decision, had issued administrative instructions vide Letter [Ms]. No.43/N/2015-13 dated 26.04.2016, giving certain guidelines in respect of persons who are placed under suspension for having involved in criminal offences.

9 Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, either in his representation or

in this writ petition, directs the respondent to consider and dispose of the petitioner's representation dated 07.11.2016 submitted through proper channel, on merits and in accordance with law, after taking note of the above cited decision as well as the administrative instructions and pass appropriate orders within a period of ten weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

10 The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

-sd-

Assistant Registrar

//True copy//

Sub Assistant Registrar

AP

To

The Inspector General of Police,
Crime Branch, CID,
Chennai - 600 032.

C.C. to MR.R.SANKARASUBBU Advocate SR.NO.13899

C.C. to The Government Pleader SR.NOS.13554 & 13549

W.P.No.5095 of 2017

GR (CO)
VS 16.03.2017

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