

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2017

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THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.616 of 2017

and W.M.P.Nos.662 to 664 of 2017

T.Veeramani

... Petitioner

Vs.

The District Manager,
Tamil Nadu State Marketing Corporation Ltd.,
Industrial Complex,
Nagapattinam District at Thirupuvanam,
Thirupuvanam - 612 103.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified Mandamus calling for the records from the respondent relating to the order bearing Na.ka.No.102/2016/A dated 30.01.2016 and quash the same and direct the respondent to provide work to the petitioner and pay wages as prescribed under Minimum Wages Act for the post of Salesman.

For Petitioner : Mr.S.Ayyathurai

For Respondent : Mr.C.Kasirajan

ORDER

By consent, the Writ Petition is taken up for final disposal.

2. The petitioner joined the services of the respondent Corporation as a Salesman and was paid consolidated wages of Rs.2,000/- per month and prior to joining of the post, a sum of Rs.15,000/- was deposited as caution deposit as per requirement and claims that he has been discharging his duty sincerely and honestly. The petitioner would aver that in the light of the registration of a case by Sirkazhi Police Station in Crime No.84 of 2016 for the alleged commission of offences under Sections 24(A)(c)(d) of the Tamil Nadu Prohibition Act and Sections 403 & 420 I.P.C., he was arrested on 28.01.2016 and was incarcerated beyond 48 hours and therefore, he was placed under suspension and later, was released on 30.01.2016. The petitioner was also subsequently issued with a show cause notice dated 09.02.2016 by the respondent questioning as to why he should not be dismissed from service, which was challenged in W.P.No.44033 of 2016 and the same is pending.

3.The learned counsel appearing for the petitioner would submit that though the petitioner is placed under suspension from 28.01.2016 onwards, the suspension order is not yet reviewed/revoked and the petitioner is not paid with subsistence allowance and in this regard, the petitioner has also submitted a representation dated 30.12.2016 and prays for revocation of the order of suspension. The learned counsel appearing for the petitioner, in support of his submission, places reliance upon the judgment of the Hon'ble Supreme Court in Ajay Kumar Choudary Vs. Union of India through its Secretary and another [(2015) 7 Supreme Court Cases 291] and has also invited the attention of this Court to paragraph-21 of the said judgment and prays for quashment of impugned order of suspension. It is relevant to extract hereunder paragraph-21 of the said judgment:

"...

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 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."

4.Per contra, Mr.C.Kasirajan, learned counsel appearing for the respondent would submit that admittedly, the petitioner was arrested in connection with a criminal case and since his incarceration exceeded beyond 48 hours, he was rightly placed under suspension and unless and until it is

reviewed by the Competent Authority, the petitioner, as a matter of right, cannot plead for revocation of the order of suspension and invited the attention of this Court to the Administrative Letter (MS) No.43/N/2015-13 dated 26.04.2016 issued by the Personnel and Administrative Reforms Department.

5.This Court has carefully considered the rival submissions and perused the records placed before it.

6.Though the petitioner prays for larger relief, this Court, in the light of the above facts and circumstances, 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 take note of the above cited judgment as well as the instructions issued by the Personnel and Administrative Reforms Department and pass orders on the representation of the petitioner dated 30.12.2016 in accordance with law within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision take, to the petitioner.

7.The Writ Petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

To

The District Manager,
Tamil Nadu State Marketing Corporation Ltd.,
Industrial Complex,
Nagapattinam District at Thirupuvanam,
Thirupuvanam - 612 103.

+1 cc to Mr.S.Ayyathurai,advocate,sr.1847.

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