

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WRIT PETITION No.5237 of 2017
W.M.P.Nos.5557 to 5559 of 2017

T.Aravind Seerala Bharathy

... Petitioner

Vs.

1. The Secretary,
Tamil Nadu Legislative Assembly Secretariat,
Secretariat, Chennai - 600 009.
2. The Deputy Secretary,
Tamilnadu Legislative Assembly Secretariat,
Chennai - 600 009.
3. The Sub Collector/ Returning Officer,
Ambasamudiram Assembly Constituency,
Tirunelveli.

.... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the entire records relating to the impugned order of the 1st respondent in his proceedings office order No.700/2016/LAS(OP-I), dated 06.06.2016 and quash the same.

For Petitioner : Mr.A.Selvendran

For Respondents : Mr.K.Dhananjeyan
Special Government Pleader

ORDER

The order of the first respondent dated 6th June 2016 placing the writ petitioner under suspension is under challenge in this writ petition.

2. The writ petitioner was initially appointed as Office Assistant on 18th January 2007 and as such was working in Tamilnadu Legislative Assembly, Secretariat, Chennai. Admittedly, a criminal case was registered against the writ

petitioner and based on that the writ petitioner was placed under suspension. Earlier the petitioner filed W.P.No.22483 of 2016 challenging the very same suspension order dated 6th June 2016 and this Court passed an order on 12th July 2016 as extracted hereunder.

"6. Taking into consideration that the petitioner is restricting the relief sought for in the writ petition, this Court without going into the merits of the claim made by the petitioner, permits the petitioner to make a representation to the 1st respondent within a period of seven days from the date of receipt of a copy of this order and on receipt of the same, the 1st respondent shall consider the same and pass appropriate orders, in the light of the judgment of the Hon'ble Supreme Court reported in (2015) 3 CTC 119 (SC), Ajay Kumar Chaudry Vs. Union of India and also the Circular issued by the Government of Tamil Nadu in Letter No.13519/N/2015-1 P&AR (N) Department, dated 23.07.2015, and in accordance with law, as expeditiously as possible. It is made clear that this Court has not expressed any opinion with regard to the merits of the claim made by the petitioner.

7. The writ petition is disposed of accordingly. Consequently, connected miscellaneous petitions are closed. No costs."

3. In implementation of the order passed by this Court, the first respondent passed orders on 3rd August 2016 rejecting the representation of the writ petitioner on the ground that a criminal case was already registered and the writ petitioner is arrayed as an accused in the said criminal case. Hence his claim for revocation of order of suspension was rejected. Challenging the same, the present writ petition is filed.

4. This Court is of the firm opinion that the suspension is not a punishment to an employee against whom a criminal case is registered and there is no infirmity in placing such an employee under suspension as per Rule.

5. Learned counsel appearing for the writ petitioner informed this Court that the subsistence allowance has not been paid to the writ petitioner. In this regard, this Court is of the view that the subsistence allowance is a right of an employee who is facing an order of suspension and such a right cannot be denied. Non-payment of subsistence allowance is fatal as far as the disciplinary proceedings are concerned and therefore, it is duty mandatory on the part of the respondents to disburse the subsistence allowance immediately without any further delay, by obtaining required certificate from the writ

petitioner stating that he is not gainfully employed anywhere. Hence, this Court directs the respondents to pay the subsistence allowance without any further delay.

6. In respect of the challenge of the suspension order, no sufficient ground is made out in this writ petition and in view of the fact that the writ petitioner is facing criminal charges, this Court is not inclined to consider the grounds raised in this writ petition challenging the order of suspension and accordingly the writ petition deserves no further merit consideration and consequently stands dismissed. However, there is no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

may a

To

1. The Secretary,
Tamil Nadu Legislative Assembly Secretariat,
Secretariat, Chennai - 600 009.
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3. The Sub Collector/ Returning Officer,
Ambasamudiram Assembly Constituency,
Tirunelveli.

+1cc to the Government Pleader, S.R.No.46873

W.P.No.5237 of 2017

CS V
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