

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.436 of 2017

K.Subbiah

... Petitioner

Vs.

The Commissioner,
Thiruvannamalai Municipality,
Thiruvannamalai - 606 601.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondent to take appropriate action on the representation of the petitioner dated 06.10.2015 as mandated in G.O.Ms.No.40 Personnel and Administrative Reforms (N) Department dated 30.01.1996 within a time frame fixed.

For Petitioner : Mr.M.Ramamoorthi

For Respondent : Mr.O.Selvam,
Government Advocate

O R D E R

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

2.The petitioner, while working as Filter Bed Operator in the services of the respondent Municipality, was visited with disciplinary proceedings and was issued with charge memo dated 25.09.2012, for which he has also submitted his explanation denying the allegations. The respondent has placed the petitioner under suspension on 26.09.2012 and the grievance of the petitioner is that he has not been paid with subsistence allowance and there is no progress in the Departmental Enquiry also. The petitioner, in this regard, has also submitted a representation dated 06.10.2015 to the respondent praying for revocation/reviewing of the order of suspension and though it was received and acknowledged, no orders have been passed and hence, came forward to file this Writ Petition.

3.Mr.M.Ramamoorthi, learned counsel appearing for the petitioner has drawn the attention of this Court to G.O.Ms.No.40 Personnel and Administrative Reforms (N) Department dated 30.01.1996 and would submit that necessary

guidelines have been given for the finalization of the departmental proceedings in respect of cases where the employees are placed under suspension and in the light of the same, appropriate orders may be passed.

4. Mr.O.Selvam, learned Government Advocate, who accepts notice on behalf of the respondent would submit that since the petitioner is facing departmental proceedings, in the interest of administration, he is rightly placed under suspension.

5.This Court heard the rival submissions and also perused the typed set of documents.

6.The Hon'ble Supreme Court in Ajay Kumar Choudary Vs. Union of India through its Secretary and another [(2015) 7 Supreme Court Cases 291] has considered the issues relating to the period of suspension, which is relevant to extract hereunder:

"...

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."

7.The Personnel and Administrative Reforms Department has also issued an Administrative Letter (MS) No.43/N/2015-13

dated 26.04.2016 for dealing with cases in which the employees are placed under suspension.

8.This Court, taking into consideration the above facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the respondent to consider and dispose of the petitioner's representation dated 06.10.2015, on merits and in accordance with law and pass orders within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

9.The Writ Petition is disposed of accordingly. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

va

To

The Commissioner,
Thiruvannamalai Municipality,
Thiruvannamalai - 606 601.

+1cc to The Government Pleader sr.2088
+1 CC to Mr. M. Ramamoorthi, sr 1794 (21/2/17)

ala(co)
ss(7/2/2017)

W.P.No.436 of 2017

सत्यमेव जयते

WEB COPY