

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.02.2017
CORAM

The Hon'ble Mr. Justice M. Sathyanarayanan

W.P.No.4366 of 2017
and
WMP.Nos.4559 & 4560 of 2017

P.K.Prabhakaran

... Petitioner

Vs.

The Superintendent of Police,
Tiruvallur,
Tiruvallur District.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking for a Writ of Certiorari calling for the records, relating to the order passed by the respondent, in D.O.No.378/2016, dated 25.07.2016 and quash the same.

For Petitioner : M/s.S.Parthasarathy

For Respondent : Mr.R.A.S.Senthilvel
Additional Government Pleader

O R D E R

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

2. The petitioner was appointed as Police Constable on 17.01.1986, in the service of Tamil Nadu Police Department, and got his promotion as Special Sub Inspector, and was serving at E2 Thirupalaivanam Police Station, Tiruvallur District. The petitioner would further aver that, in connection with the registration of the case in Crime No.20 of 2016, lodged by the District Crime Branch, Tiruvallur, for alleged offence under Sections 406, 468, 471, 419, 420 and allied offences IPC, he was arrested and incarcerated for more than 48 hours and he was issued with a order of suspension by the respondent on 25.07.2016. Challenging the legality of the same, the petitioner has come forward to file this Writ Petition.

3. Mr.S.Parthasarathy, the learned counsel appearing for the petitioner would submit that, at the time of the alleged commission of offence, the petitioner was on medical leave between 25.01.2016 and 28.02.2016, and he has nothing to do with the alleged offence, and since the suspension is a prolonged one, he submitted a representation, dated 08.10.2016 to the

respondent, praying for revocation of the order of suspension. Since no orders have been passed, the present Writ Petition is filed.

4. Per contra, Mr.R.A.S.Senthilvel, the learned Additional Government Pleader, who accepts notice on behalf of respondent would submit that since incarceration had exceeded 48 hours, the petitioner has been placed under deemed suspension, and in the absence of the respondent reviewing the suspension order, the petitioner, as a matter of right, cannot pray for revocation of the same, and seeks for dismissal of the Writ Petition.

5. This Court considered the rival submissions and also perused the materials placed on record.

6. The Hon'ble Supreme Court, in the decision reported in (2015) 7 SCC 591 in re (Ajay Kumar Choudhary Vs. Union of India) has considered the issue relating to prolonged suspension and held that, the currency of suspension order should not extend beyond three months, if, within the period, the memorandum of charges/charge sheet is not served, a reasoned order must be passed for extension of the suspension period. Taking note of the above cited judgment, the Government of P.& A.R.Department has also issued administrative instructions, in Letter Ms.No.43N/2015-3, dated 26.04.2016, to deal with such cases.

7. Though the petitioner prays 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, directs the second respondent to consider and dispose of the petitioner's representation, dated 08.10.2016, on merits and in accordance with law, in the light above cited judgment as well as the instructions of P.&A.R. Department, in Letter Ms.No.43N/2015-3, dated 26.04.2016, and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order, and communicate the decision taken, to the petitioner.

8. This Writ Petition is disposed of accordingly. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

sd

Sub Assistant Registrar

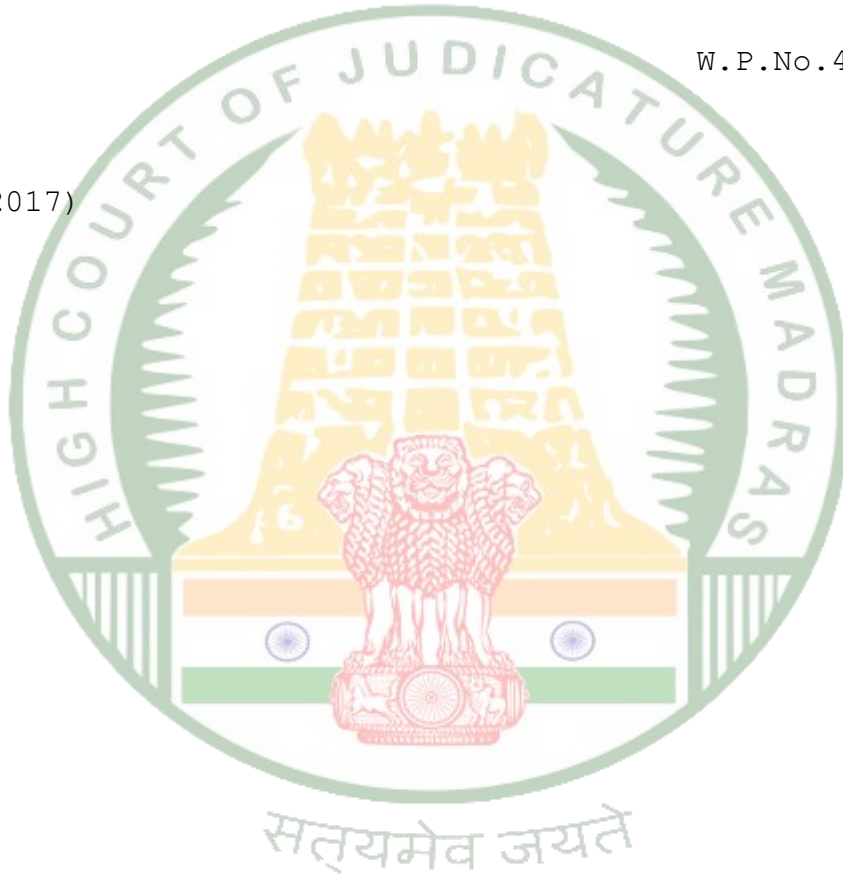
To

The Superintendent of Police,
Tiruvallur,
Tiruvallur District.

+1cc to Mr.Parthasarathy, Advocate, S.R.No.11137
+1cc to the Government Pleader, S.R.No.12162

W.P.No.4366 of 2017

MP (CO)
RS (04/04/2017)



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