

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.4449 of 2017
and
WMP No.4655 of 2017

L.Jesurajan

... Petitioner

Vs

- 1.The Deputy Inspector General of Police,
Vellore Range,
Vellore District.
- 2.The Superintendent of Police,
Tiruvannamalai District.
- 3.The Inspector of Police,
Vigilance and Anti-corruption Department,
Tiruvannamalai District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records relevant to the order in C.No.B1/010343/2016 R.O.306/2016 dated 22.09.2016 passed by the first respondent and quash the same as illegal, improper, unreasonable, arbitrary against the principles of natural justice and thereby direct the first respondent to reinstate the petitioner into his service with effect from 21.09.2016 with all backwages.

For Petitioner : Mr.B.Gopalakrishnan

For Respondent : Mr.K.Dhananjayan
Special Government Pleader

O R D E R

By consent, the writ petition is taken up for final disposal. Mr.K.Dhananjayan, learned Special Government Pleader accepts notice for the respondents 1to 3.

2. The petitioner while serving as Sub Inspector of Police in Kadaladi Police Station said to have involved himself in commission of offences under the Prevention of Corruption Act, 1988 and in this regard, Tiruvannamalai Vigilance and Anticorruption registered a case in Crime No.5/2016 under sections 7 altered into 7 and 13(2) read with 13(1)(d) of Prevention of Corruption Act and 109 of I.P.C. read with 13(2) read with 13(1)(d) of Prevention of Corruption Act 1988 and that he was arrested on 21.09.2016 and remanded to the judicial custody and since he was kept in custody for 48 hours, he was placed under suspension vide order of the first respondent dated 22.09.2016. The petitioner has submitted a representation dated 27.12.2016 praying for revocation of suspension order. Since no order has been passed, he came forward to file this writ petition.

3. Mr.B.Gopalakrishnan, learned counsel appearing for the petitioner has drawn this attention of the court to the decision of the Hon'ble Supreme Court reported in 2015(7) SCC 291, Ajay Kumar Choudhary vs Union of India and submit that the order of suspension against the petitioner is liable to be revoked and he prays for appropriate orders.

4. Per contra, Mr.K.Dhananjayan, learned Special Government Pleader appearing for the respondent would submit that the petitioner committed the offences under the Prevention of corruption Act and since the petitioner has been kept under custody for 48 hours, he has been placed under suspension. Hence, the petitioner as a matter of right cannot pray for revocation of order of suspension.

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

6. The Hon'ble Supreme Court of India in the above decision has held 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 official and if the Memorandum of Charges/Charge sheet is served, a reasoned order must be passed for the extension of the suspension. The Government is free to transfer the concerned person 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 Personnel and Administrative Reforms of the government of Tamilnadu in letter

No.13519/N/2016-1, after taking note of the stated decision, dated 23.07.2015, has also issued guidelines as to the revocation of order of suspension in respect of persons involved themselves in commission of criminal offence.

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, either in the representation or in the writ petition, directs the first respondent to consider and dispose of the petitioner's representation dated 27.12.2016 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. The writ petition is disposed of accordingly. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Inspector General of Police,
Vellore Range,
Vellore District.
2. The Superintendent of Police,
Tiruvannamalai District.
3. The Inspector of Police,
Vigilance and Anti-corruption Department,
Tiruvannamalai District.

+1cc to Mr.B.Gopalakrishnan, Advocate Sr.11282
+1cc to the Government Pleader Sr.12158

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srg 15/03/2017