

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.4945 of 2017

Mr.C.Mani

...Petitioner

vs.

- 1.The State of Tamil Nadu,
Rep by the Secretary to Government,
Tamil Nadu Higher Education Department,
Secretariat, Chennai-600 009.
 - 2.The Director of College Education Department,
Directorate of Collegiate Education,
EVK Sampath Building,
College Road, Chennai-600 006.
 - 3.The Principal of Arignar Anna Government Art College,
Arignar Anna Government Art College,
Villupuram-605 602.
-Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the third respondent to consider the petitioner representation dated 23.12.2016 and take final decision on the representation of the petitioner dated 23.12.2016, pertaining to the order passed in suspension order in RC.No.934/C/2015 dated 16.06.2015 under Section 17(2)(e) of Tamil Nadu Civil Service (Discipline and Appeal) Rules issued by the 3rd respondent within a time frame.

For Petitioner : Mr.C.Thamaraikannan

For Respondents : Mr.V.Anandamoorthy,
Additional Government Pleader

O R D E R

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

2. The petitioner was appointed on compassionate ground as Lab Assistant with effect from 08.12.2008 in the third respondent College on account of the demise of his father, who

worked as Commodity Guardian and the petitioner was brought under regular establishment, vide order dated 24.02.2011. The petitioner would further aver that dispute arose among family members which resulted in registration of a case in Crime No.344 of 2015 on 22.05.2015 for the alleged commission of offences under Sections 147, 294(b), 324, 506(ii) IPC and Section 4 of Women Harassment Act, wherein the petitioner was arrayed as the second accused and he was arrested. There was also a counter complaint in Crime No.352 of 2015 registered by the very same police station against Murugan and others for the alleged commission of offences under Sections 147, 148, 294(b), 323, 324 and 506(ii) IPC and Section 4 of Women Harassment Act and the petitioner was arrested and remanded to judicial custody on 22.05.2015 and enlarged on bail on 28.05.2015 and since the period of incarceration has exceeded 48 hours, he was placed under suspension by the third respondent, vide order dated 16.06.2015. The petitioner, in this regard, has also submitted a representation dated 23.12.2016 praying for revocation of the order of suspension and since, it is yet to be favoured with any kind of response, came forward with this writ petition.

3. The learned counsel appearing for the petitioner has drawn the attention of this Court to the judgment rendered by the Hon'ble Supreme Court of India in Ajay Kumar Choudhary v. Union of India [(2015) 7 SCC 291] wherein it has been held that currency of a suspension order should not exceed beyond three months if within this period the memorandum of charges/charge-sheet is not served on the delinquent officer/employer and if memorandum of charges/charge-sheet is served, a reasoned order must be passed for extension of suspension and admittedly departmental proceedings are yet to be initiated in the form of charge memo and in the light of the above cited judgment prays for revocation of the order of suspension.

4. Mr.V.Anandhamoorthy, learned Additional Government Pleader, who accepts notice on behalf of the respondents, would submit that the respondents have taken note of the above cited judgment as well as the administrative instructions of the Personnel and Administrative Reforms Department of the Government of Tamil Nadu in Letter (Ms)No.43/N/2015-13 dated 26.04.2016 and since the petitioner has been placed under deemed suspension, unless and until it is revoked or reviewed by a competent authority, the petitioner, as a matter of right, cannot seek for revocation of the order of suspension and prays for dismissal of the writ petition.

5. This Court has considered the rival submissions and also perused the entire materials placed before it.

6. Though the petitioner has prayed for 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 third respondent to consider and dispose of the petitioner's representation dated 23.12.2016, in the light of the above cited judgment as well as the administrative instructions of the Personnel and Administrative Reforms Department of the Government of Tamil Nadu in Letter (Ms) No.43/N/2015-13 dated 26.04.2016 and pass orders on merits and 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 taken, to the petitioner.

7. This Writ Petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

jvm

To

1. The Secretary to Government,
The State of Tamil Nadu,
Tamil Nadu Higher Education Department,
Secretariat, Chennai-600 009.
2. The Director of College Education Department,
Directorate of Collegiate Education,
EVK Sampath Building,
College Road, Chennai-600 006.
3. The Principal of Arignar Anna Government Art College,
Arignar Anna Government Art College,
Villupuram-605 602.

+1cc to Mr.Thamarai kannan, Advocate, S.R.No.12802
+1cc to the Government Pleader, S.R.No.13575

SKS (CO)
RS(13/03/2017)

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