

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:05.06.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.578 of 2017
in
C.M.P. No.8164 of 2017

1. The State of Tamil Nadu,
Rep. by the Principal Secretary
to Government,
Finance (Co-operative Audit) Department,
Secretariat, Chennai-9.
 2. The Director of Co-operative Audit,
No-5, Kamarajar Salai,
Chennai-5.
 3. The Assistant Director of
Co-operative Audit,
Tiruvallur District. ...Appellants/Respondents
- vs.
- D.Sankar ...Respondent/Petitioner

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 06.10.2016 passed in W.P.No.11537 of 2016 on the file of this court. 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 on the file of the 1st Respondent in (i) Government Letter No.32432/ Co.Op. Audit/2014 dated 11.02.2016 (ii) Government Letter No.68546/ Co.Op Audit/2014 dated 03.03.2015 and the orders of the 2nd Respondent in (iii) Na.Ka. No.5002/2014/Ne.Oo-2 dated 11.03.2015 (iv) Na.Ka. No.5002/2014/Ne. Oo.2(2) dated 2.12.2014 and the order of the 3rd Respondent in (V) Rc.No.405/ 2014/ OP dated 14.02.2014 and quash the same and direct the Respondent to forthwith reinstate the Petitioner in service with al consequential service and benefits.

For appellants : Ms.T.Girija, Government Advocate
For respondent : Mr.M.Ravi

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned Government Advocate appearing for the appellants and Mr.M.Ravi, learned counsel for the respondent, who takes notice on behalf of the respondent.

2. Challenging the order of the learned Single Judge directing the appellants to consider for reinstatement of the respondent herein in the light of the decision in AJAY KUMAR CHOUDHRY v. UNION OF INDIA (2015 (2) SCALE 432), the present writ appeal has been filed.

3. In the decision cited supra, it is held that currency of suspension order should not be extended beyond three months, if within this period, the Memorandum of Charges/Charge Sheet is not served on the delinquent official and if charge memo/sheet is served, a reasoned order must be passed for extension of the suspension. It appears that in compliance of the decision of the Supreme Court, the Government also shown to have passed a G.O. dated 23.7.2015 directing all the Secretaries to the Government Department and the Heads of Departments to follow the limitation in the period of suspension in letter and spirit.

4. It appears that the spirit of the very G.O. has not been complied with in the present case. The learned Single Judge, having found that the appellants have not passed any reasoned order for extension of suspension in respect of the writ petitioner, has quashed the impugned orders and directed the appellants to pass orders afresh with regard to reinstatement which has also not been complied with.

5. Having chosen to take disciplinary action against an employee who, is alleged to have involved in a corruption case, merely prolonging the proceedings by keeping the employee under suspension without even passing a reasoned order extending the suspension order, will not only lead to mental agony to the employee, but, it would also raise the burden of the exchequer since pay has to be made by way of subsisting allowance, without extracting any work and it appears that in that context, the Supreme Court also shown to have taken such a view. However, such persons be posted to non-sensitive post.

6. The order of the learned Single Judge appears to be as per the ratio laid down by the Supreme Court and the G.O. issued in this regard. We do not find any scope for

interference. Accordingly, the appeal is disposed of at the stage of admission. However, it would be appropriate to direct the Government to press for early action to be taken on the criminal side so that it would reach a finality and to put an end to the litigation. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ssk.

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1. The State of Tamil Nadu,
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Chennai-5.
3. The Assistant Director of
Co-operative Audit,
Tiruvallur District.

+1cc to Mr.M. Ravi, Advocate, S.R.No.39994
+1cc to the Government Pleader, S.R.No.40054

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AD(CO)
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