

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2017

CORAM:

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
and
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.878 of 2017
and
C.M.P.Nos.12231 and 12232 of 2017

The Inspector of Labour,
Coimbatore. Appellant/Respondent

... Vs ...

L.Felix Reginald Respondent/Writ Petitioner

Prayer: Writ Appeal filed under Clause 15 of Letters Patent,
against the order dated 28.11.2016 passed by this Court in
W.P.No.36476 of 2016.

Prayer in WP.No.36476/2016: Writ of Certiorari, Calling for
the records relating to the respondent's impugned order
No.A/8251/2015, dated 14/10/2015 to quash the same.

For Appellant : Mr.P.S.Sivashanmugha Sundaram,
Special Government Pleader

For Respondent : Mr.L.Chandrakumar

JUDGMENT

(Judgment of the Court was delivered by
HULUVADI G.RAMESH,J.,)

Heard the learned counsel for the parties for some time.

2. The writ petition has been filed by the respondent herein praying for issuance of a Writ of Certiorari, calling for the records relating to the impugned order passed by the appellant herein in No.A/8251/2015, dated 14.10.2015, and to quash the same.

3. It appears that the respondent herein/writ petitioner, who was working as an Assistant Inspector of Labour, was placed under suspension by the appellant/Inspector of Labour, Coimbatore, on 14.10.2015 and the said suspension order was

challenged before the learned Single Judge and the learned Single Judge, by relying upon the decision of the Supreme Court in the case of Ajay Kumar Choudhry Vs. Union of India reported in [2015 (2) SCALE 432], allowed the writ petition by quashing the impugned order dated 14.10.2015 and directed the appellant herein to reinstate the respondent herein/writ petitioner in any non-sensitive post where the Department feels that the writ petitioner can be accommodated. As against the said order, the respondent in the above writ petition has preferred the above writ appeal.

4. The attention of this Court was drawn to the proceedings of the Personnel and Administrative Reforms (N) Department, Secretariat, Chennai, referring to various cases.

5. In the decision reported in 2013 (14) SCALE 323 [Union of India and another Vs. Ashok Kumar Aggarwal], the Supreme Court has defined the scope of interference by the Courts in suspension orders and the relevant portion is extracted below:-

"Suspension is a device to keep the delinquent out of the mischief range. The purpose is to complete the proceedings unhindered. Suspension is an interim measure in aid of disciplinary proceedings so that the delinquent may not gain custody or control of papers or take any advantage of his position. More so, at this stage, it is not desirable that the Court may find out as which version is true, when there are claims and counter claims on factual issues. The Court cannot act as if it an appellate forum de hors the powers of judicial review."

6. Even the long period of suspension does not make the order of suspension invalid and the mere delay in conclusion of trial, cannot be a ground for quashing the suspension order, if the charges are fair in nature. Though it is normal that whether the employee should continue the office or not during the period of enquiry, the matter has to be assessed by the disciplinary authority and the order should not make the mockery of suspension. The fact remains that in the instant case, the delinquent has been kept under suspension on 14.10.2015. Now, almost more than two years have elapsed and after enquiry, charge sheet is said to have been filed against the respondent herein for misappropriating compounding fee collected by him in Tiruppur City Crime Branch Crime No.10/2015 for the offences under Sections 409, 417 and 420 of IPC.

7. The reasons given by the learned Single Judge for quashing the suspension order are acceptable. We do not find any irregularity in the order passed by the learned Single Judge. Since no progress has been made in the criminal case

even after the final report is filed, we direct the State Authorities to take steps to see that the prosecution launched against the respondent herein, shall be expedited, since already the respondent herein was posted in a non-sensitive post and the grounds raised in the writ appeal have to be taken in proper spirit, but not once again by placing him under suspension. In the above background, however, it is advised to the State Authorities to see that the trial is expedited. Pending disposal of the criminal trial, the order of reinstatement in a non-sensitive post need not be disturbed, since already, the respondent herein be posted in a non sensitive post.

8. With the above observations, the Writ Appeal stands disposed of. No costs. The connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

Jrl

To
The Inspector of Labour
Coimbatore

+1cc to Mr.L.Chandrakumar, Advocate SR.No.78823
+1cc to Government Pleader Sr.No.79334

W.A.No.878 of 2017

RK(CO)
sm:28.11.2017

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