

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.32592 of 2017

K.Kuppusamy .. Petitioner

-vs-

1. The Divisional Engineer
Highways (C&M)
Namakkal
2. The Assistant Divisional Engineer
Highways (C&M)
Namakkal .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the first respondent to revoke the order of suspension and restore the petitioner in service by reviewing the suspension order issued in his proceedings Proc.No.2445/2016/A5 dated 27.10.2016 in the light of Government letter no.13519/N/2015-1 dated 23.07.2015 (P&AR) Department by considering the representation made by the petitioner dated 18.11.2017.

For Petitioner :: Mr.T.Sellapandian

For Respondents :: Mr.V.Jayaprakash Narayanan
Special Government Pleader
for R1 & R2

सत्यमेव जयते
ORDER

This writ petition has been filed challenging the correctness of the order dated 27.10.2016 passed by the Divisional Engineer, Highways (C&M), Namakkal under sub-rule (2) (e) (i) of Rule 17 of the Tamil Nadu Civil Services (Discipline & Appeal) Rules, for the reason that the petitioner suffered a First Information Report for the alleged criminal activity.

2. Learned counsel for the petitioner submitted that while the petitioner was serving as Road Inspector, his wife and neighbours entered into some altercation. In the said incident, the petitioner's wife was admitted after injury as an in-patient at the Government Hospital, Vellore. But no action was taken in

spite of his complaint. Therefore, his wife filed a complaint under Section 200 Cr.P.C., against Kanagam's family and the same was also taken cognizance in C.C.No.162 of 2013 on the file of the learned Judicial Magistrate, Paramathi. Subsequently, his wife was threatened to withdraw the complaint. But she declined. Therefore, to wreck vengeance, the other party lodged another complaint on 25.10.2016 as a counter blast for the complaint given by his wife under Section 294(b) of IPC read with Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, as if he had taken photographs in his cellphone for the alleged occurrence according to the complainant on 21.10.2016. Thereafter, on the basis of registration of First Information Report, he was placed under suspension as mentioned above. Moreover, his request for reviewing the suspension also has not been considered, as per the ratio laid down by the Apex Court in Ajay Kumar Choudhary v. Union of India, 2015 (3) CTC 119 holding that if the order of suspension is not reviewed within three months, the same is liable to be revoked. In the present case, no departmental proceeding is also pending. Learned counsel for the petitioner also submitted that if a direction is given to consider his representation to revoke the suspension order, no prejudice would be caused in the light of the aforesaid judgment.

3. The learned Special Government Pleader for the respondents also submitted that it is not a case where the petitioner was suspended for any lapse while discharging his official duties.

4. In view of the above, the respondents are directed to consider the representation of the petitioner dated 18.11.2017 and pass appropriate final orders within a period of two weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs.

Sd/-

Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

ss

To

1. The Divisional Engineer
Highways (C&M)
Namakkal

2. The Assistant Divisional Engineer
Highways (C&M)
Namakkal

+lcc to Mr.T.Sellapandian, Advocate sr.90431

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