

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2017

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.14657 of 2014

and

M.P.No.1 of 2014 and W.M.P.No.2796 of 2017

Mayakannan

.. Petitioner

Vs.

1.The State of Tamil Nadu
rep. by The Director,
Tamil Nadu Motor Vehicles
Maintenance Department,
Velachery Checkpost,
Chennai - 42.

2.The Automobile Engineer (F.Ad.C.),
Government Automobile Workshop,
Dharmapuri, Dharmapuri District.

.. Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records made in Proceedings No.A1/1088/2011 dated 08.09.2011 on the file of the second respondent herein and quash the same as illegal and direct the respondents to reinstate the petitioner into service as Special Grade Liner, Government Automobile Workshop, Dharmapuri District.

For Petitioner

.. Mr.R.Sankarasubbu

For Respondents

.. Mr.T.M.Pappiah,
Spl. Govt. Pleader

ORDER

The petitioner has approached this Court seeking the following prayer:

to call for the records made in Proceedings No.A1/1088/2011 dated 08.09.2011 on the file of the second respondent herein and quash the same as illegal

and direct the respondents to reinstate the petitioner into service as Special Grade Liner, Government Automobile Workshop, Dharmapuri District.

2.The case of the petitioner is as follows:

(i)The petitioner is a Special Grade Liner, Government Automobile Workshop, Dharmapuri. While working as such, he was placed under suspension under Rule 17(e) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules vide order dated 08.09.2011. According to the petitioner, the suspension order was necessitated in view of his involvement in a criminal case and charge sheet has been filed, which is pending before the competent criminal Court. As far as the criminal case is concerned, it has not even reached the trial stage as on date and the same is pending finalisation. In fact, the petitioner has approached this Court in Crl.O.P.No.995 of 2016 and obtained an order on 10.01.2016 for early completion of the trial. In spite of the order passed by this Court, the trial has not been completed and the same is still pending.

(ii)In spite of lapse of more than seven years, the suspension order passed against the petitioner has not been reviewed by the competent authority as mandated by various Government Orders issued on the subject matter. Without any semblance of review, the original order of suspension dated 08.09.2011 has been continued without much progress being made in the criminal case.

3.Mr.R.Sankarasubbu, learned counsel appearing for the petitioner would submit that such a prolonged suspension without any review is contrary to various Government Orders and also contrary to the law declared by the Supreme Court of India in Ajay Kumar Choudhary Vs. Union of India through its Secretary and Another (2015 (7) SCC 291).

4.Upon notice, Mr.T.M.Pappiah, learned Special Government Pleader entered appearance on behalf of the respondents. He would submit that because of the pendency of the criminal proceedings against the petitioner, the suspension of the petitioner could not be revoked.

5.This Court has given its anxious consideration on the rival submissions of the advocates and also perused the materials and the pleadings on record.

6.It is needless to mention that the prolonged suspension itself would constitute great prejudice to the employees and the said prolonged suspension without any kind of review of these orders cannot be countenanced both in law and on fact. It is

imperative upon the authority concerned to cause review of suspension periodically and in the absence of the same, the suspension order is liable to be interfered with. As held by the Supreme Court of India in the above said decision, suspension cannot be continued beyond a particular period of time and in the instant case, the suspension has been continued since 08.09.2011 and till date without any form of review at the hands of the competent authority. By applying the ratio laid down by the Supreme Court of India, the present suspension order is liable to be set aside as circumstances and the facts do not call for continuing the suspension of the petitioner.

7. In the above circumstances, the impugned order of suspension is set aside and the writ petition is allowed. The respondents are directed to reinstate the petitioner forthwith with all consequential and attendant benefits admissible in terms of the rules governing the position of the petitioner. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Director,
Tamil Nadu Motor Vehicles
Maintenance Department,
Velachery Checkpost,
Chennai - 42.

2. The Automobile Engineer (F.Ad.C.),
Government Automobile Workshop,
Dharmapuri, Dharmapuri District.

+1cc to Mr.K.Sankarasubbu, Advocate SR.No.49065

WP.No.14657 of 2014

NM(CO)
GN(02/08/2017)