

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.06.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.24724 of 2013

M.Babu

.. Petitioner

vs.

1. The District Educational Officer,
Tiruvallur, Tiruvallur District.

2. The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Kancheepuram.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned order passed by the first respondent in his proceedings in Na.Ka.No.2440/A-1/2012 dated 17.06.2013 and quash the same and consequently direct the first respondent to reinstate the petitioner into service as Lab Assistant in R.K.Pet Government Higher Secondary School, R.K.Pet, Pallipet Taluk, Tiruvallur District with all attendant benefits and backwages.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.K.Dhananjayan,
Special Government Pleader

सत्यमेव जयते
O R D E R

The petitioner, while working as Record Clerk in R.K. Pet Government Higher Secondary School, Tiruvallur District, said to have demanded a sum of Rs.400/- as illegal gratification from Thiru.A.Rajesh, Son of Arumugam for the purpose of obtaining a badge to drive commercial vehicles from the Regional Transport Office, Ranipet. The said A.Rajesh, aggrieved by the demand made by the petitioner, has lodged a complaint to the Directorate of Vigilance and Anti Corruption, Kancheepuram, based on which a case in Crime No.3/AC/2012/KM was registered for the offence under Section 7 of the Prevention of Corruption Act, 1988. The trap laying officer, on registration of the

case, had made arrangements for laying a trap and it was successful and the petitioner was arrested and remanded to judicial custody on 08.06.2012 by the learned Chief Judicial Magistrate cum Special Judge, Thiruvallur and based on his arrest and detention, he was placed under deemed suspension on 15.06.2012 by the first respondent.

2. Challenging the order of suspension, the petitioner had filed a writ petition in W.P.No.7969 of 2013 and this Court, vide order dated 28.03.2013 had permitted the petitioner to submit a representation to the first respondent, who in-turn was directed to pass orders on merits and in accordance with law within a stipulated time and the first respondent, in compliance of the order passed by this Court, has passed an order dated 17.06.2013 stating that the criminal prosecution launched against the petitioner is still pending and therefore, he cannot be reinstated into service. Challenging the legality of the same, the petitioner came forward with this writ petition.

3. Mr.C.Prakasam, learned counsel appearing for the petitioner has drawn the attention of this Court to the judgment of the Hon'ble Supreme Court of India in Ajay Kumar Choudhary v. Union of India [(2015) 7 SCC 291] and would submit that though the charge sheet has been filed after investigation, which was taken on file by the learned Chief Judicial Magistrate cum Special Judge, Thiruvallur in Special C.C.No.7 of 2013, the trial is being dragged on and only four witnesses have been summoned and the fact remain that the petitioner is suffering on account of suspension nearly for four years and prays for quashment of the order of suspension.

4. Per contra, Mr.K.Dhananjayan, learned Special Government Pleader appearing for the respondents has drawn the attention of this Court to the counter affidavit filed by the first respondent and would submit that since the petitioner is involved in the commission of offences of moral turpitude, he has been rightly placed under suspension and charge sheet has already been filed and the trial is pending and the ratio laid down by the Hon'ble Supreme Court of India in Ajay Kumar Choudhary case may not be applicable to the facts of this case and prays for dismissal of this writ petition.

5. This Court paid its best attention to the rival submissions and also perused the entire materials placed before it.

6. The Hon'ble Supreme Court of India in Ajay Kumar Choudhary v. Union of India and Another [(2015) 7 SCC 291] has considered the case of prolonged suspension and directed that currency of a suspension order should not extend beyond three

months, if within this period the memorandum of charges/charge-sheet is not served on the delinquent officer/employee and if memorandum of charges/charge-sheet is served, a reasoned order must be passed for extension of suspension.

7. In the light of the ratio laid down in the above cited judgment, the first respondent is directed to pass appropriate orders with regard to the order of suspension dated 15.06.2012 passed against the petitioner in accordance with law within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

8. The Court of Special Judge cum Chief Judicial Magistrate, Tiruvallur is also directed to expedite the disposal of Special C.C.No.7 of 2013, pending on its file and the petitioner as well as the second respondent shall extend their utmost cooperation to the said Court for early disposal of the said case.

9. This Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

jvm

To

1. The Special Judge cum Chief Judicial Magistrate, Tiruvellore.
2. The District Educational Officer, Tiruvallur, Tiruvallur District.
3. The Deputy Superintendent of Police, Vigilance and Anti Corruption, Kancheepuram.

+1cc to Mr.C.Prakasam, Advocate, S.R.No.39544
+1cc to the Government Pleader, S.R.No.39764

CS/09/06/17

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