IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12-12-2017

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.38215 of 2016
And
W.M.P.Nos.32760 and 32761 of 2016 and 31515 of 2017

M.Ravi .. Petitioner

-vs-

The Commissioner of Commercial Taxes,
Chepauk,
Chennai-5. .. Respondent

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondent in its Memo No.EE2/21208/ 2013 dated 31.3.2016 and quash the same and consequently, direct the respondent to revoke the order of suspension dated 16.7.2013 and reinstate him back into service in the light of the judgment of the Hon'ble Supreme Court in Ajay Kumar Choudhary's case reported in 2015 (7) SCC 291.

For Petitioner - Mr.V.Vijay Shankar

For Respondent - Mr.S.Kanmani Annamalai,
Additional Government Pleader (Taxes).

ORDER

The order of suspension issued against the writ petitioner in proceedings dated 16.7.2013 is under challenge in this writ petition.

2. The writ petitioner was appointed as a Typist in the Department of Commercial Taxes in the year 1997 and promoted to the post of Assistant on 17.8.2007. Thereafter, the writ petitioner was promoted to the post of Deputy Commercial Tax Officer with effect from 4th March 2013 and on account of certain allegations, the writ petitioner was placed under suspension in proceedings dated 16.7.2013.

3. On account of the initiation of the disciplinary proceedings against the writ petitioner, a charge memo was issued on 25.7.2013 and the writ petitioner has submitted his explanations, denying the charges on 22.8.2013. However, an order of reversion was issued against the writ petitioner in the

proceedings dated 18.12.2014, reverting the writ petitioner from the post of Deputy Commercial Tax Officer to the post of Assistant. However, the order of suspension has not been revoked and even now the writ petitioner is continuing under suspension, is the grievances set out in the writ petition.

4. The learned Additional Government Pleader, appearing on behalf of the respondent, opposed the contention of the learned counsel for the writ petitioner, by stating that the allegations against the writ petitioner, are serious and therefore, they cannot revoke the order of suspension. This apart, the writ petitioner has already filed a review against the order of suspension before the Competent Authority and the same was rejected in proceedings dated 31.3.2016. Since the writ petitioner has involved in certain serious irregularities, the respondent has taken a decision to continue the order of suspension till the completion of the disciplinary proceedings.

5. Heard the parties.

6. This Court is of the opinion that the prolonged suspension is certainly bad in law. On initiation of the disciplinary proceedings, an employee is placed under suspension as per the rules. However, such a suspension need not be continued for an unspecified period without completing the disciplinary proceedings initiated against the writ petitioner.

7. It is mandatory that whenever disciplinary proceedings are initiated against a Government employee, the same should be completed within a reasonable period of time, unless there is an acceptable impediment. Under normal circumstances, the disciplinary proceedings initiated ought to have been completed, without any further delay. The long delay in concluding the disciplinary proceedings will certainly cause prejudice to the employees, in respect of their promotions, retiral benefits etc. Thus, the Competent Authorities have to see that the disciplinary proceedings initiated against the writ petitioner is concluded, within a reasonable period of time.

8. It is needless to state that for concluding the disciplinary proceedings, the delinquent official also should cooperate. However, in the case on hand, there is no such allegation of non-cooperation on the part of the writ petitioner for proceeding with the enquiry proceedings.

9. Further, it is brought to the notice of this Court that the writ petitioner was also reverted to the post of Assistant from the post of Deputy Commercial Tax Officer in proceedings dated 18.12.2014. Thus, the learned counsel for the writ petitioner made a submission that even if the order of suspension is revoked, the writ petitioner would be posted in the post of Assistant and the same will not hamper the

continuance of the disciplinary proceedings against the writ petitioner.

10. Thus, this Court is of the firm opinion that there is no bar for the respondent to continue the disciplinary proceedings. However, now more than four years have lapsed and there is no reason to continue the order of suspension against the writ petitioner. The writ petitioner may be reinstated and he may be posted in any one of the non-sensitive post till the final disposal of the disciplinary proceedings pending against the writ petitioner.

11. This Court is of further opinion that placing an employee under suspension for an unspecified period will cause monetary loss to the State Exchequer. Further, if the period of suspension exceeds more than six months, then the employee may claim the enhanced subsistence allowance which is permissible under the rules.

12. Under these circumstances, paying the subsistence allowance for a long period, without extracting any work from the employee will cause financial loss to the State Exchequer. Thus, the Competent Authorities are to take note of all these things and conclude the disciplinary proceedings as early as possible.

13. In the case on hand, the writ petitioner is under continuous suspension for more than four years and therefore, this Court is of the opinion that the suspension deserves to be set aside. Accordingly, the order of suspension issued by the respondent in Memo No.EE2/21208/2013 dated 31.3.2016 is quashed and the writ petitioner may be posted in the post of Assistant in any one of the non-sensitive post till the completion of the disciplinary proceedings.

14. Accordingly, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

Svn

To

The Commissioner of Commercial Taxes,
Chepauk,
Chennai-5.

+1cc to V.Vijay Shankar, Advocate SR.No.88631

WP 38215 of 2016

sm:21.12.2017