



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 07.02.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.A.[MD].No.17 of 2015
and
MP(MD) NO:1 OF 2015

State of Tamil Nadu,
Rep by the Principal Secretary to Government,
Home [Transport -II] Department,
Secretariat, Chennai 9. : Appellant/Respondent

Vs.

M.Ravichandran : Respondent/Petitioner

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 10.01.2014 made in W.P.(MD).No.15231 of 2011, on the file of this Court.

Prayer in WP(MD). 15231/ 2011 :

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of certiorarified mandamus, to call for the records relating to the order passed by the respondent in G.O.(2D) No.275 Home (Tr.II) Department, dated 07.06.2010 and the consequential order, in G.O(D). No.572 Home (Tr.II) Department dated 23.06.2011 and quash the same and direct the respondent to confer all the consequential benefits on the petitioner.

For Appellant : Mr.S.Chandrasekar
Government Advocate
For Respondent : Mr.V.Panneer Selvam

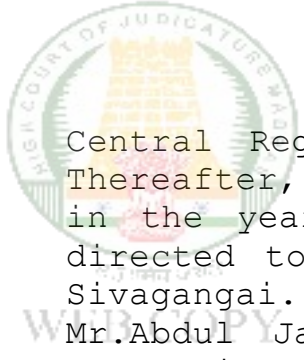
JUDGMENT

[Judgment of the Court was made by **R.SUBBIAH, J.**]

This Writ Appeal has been filed as against the order, dated 10.01.2014, made in W.P.(MD).No.15231 of 2011, whereby and whereunder the learned Single Judge of this Court set aside the order of suspension and directed the appellant herein to reinstate the respondent herein and post him in any non-sensitive post in a far away place without detriment to the action initiated against him.

<https://mcservices.ecourts.gov.in/mcservices/>

2. The case of the respondent before the learned Single Judge is that he was appointed as Motor Vehicle Inspector Grade II, through the Tamil Nadu Public Service Commission and posted as



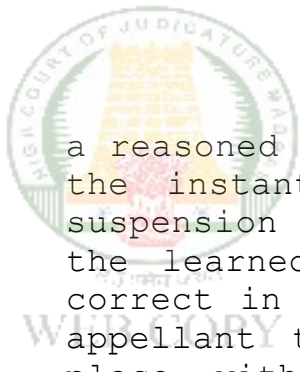
Central Regional Transport Inspector Grade I in the year 2002. Thereafter, he was further promoted as Regional Transport Officer in the year 2009 and posted at Trichy Enforcement Wing and was directed to take additional charge as Regional Transport Officer, Sivagangai. While so, on the basis of a complaint lodged by one Mr. Abdul Jaleel, a trap was set up by the Vigilance and Anti Corruption Police Department and phenolphthalein test was conducted, which turned positive and on the basis of the same, a Criminal Case in Crime No.18 of 2010, under Sections 7 and 8 of the Prevention of Corruption Act, 1988, was registered on the file of the Vigilance and Anti Corruption, Trichy Department. Thereafter, he was arrested on 01.06.2010, at 03.20 PM and remanded to judicial custody. Later, he was released on bail on 04.06.2010.

3. Since the respondent was in jail for more than 48 hours, he was placed under suspension, vide G.O.(2D).No.275, Home (TRII) Department, dated 07.06.2010. Thereafter, the respondent made several representations before the appellant seeking to revoke the suspension. Since no action was taken, the respondent was constrained to file W.P.(MD).No.4610 of 2011 challenging the order of suspension. The learned Single Judge of this Court, by order dated 21.04.2011, directed the respondent herein to submit a detailed representation to the appellant herein seeking to revoke the order of suspension within one week and on receipt of the same, the appellant was directed to consider the said representation and pass appropriate orders on merits and in accordance with law within one month thereafter.

4. Accordingly, the respondent made a representation dated 27.04.2011, explaining everything in detail with a request to revoke the order of suspension. However, the appellant rejected the said representation by order dated 23.06.2011, which was challenged by the respondent by filing W.P.(MD).No.15231 of 2011. The learned Single Judge of this Court, by order dated 10.01.2014, set aside the order of suspension and directed the appellant herein to reinstate the respondent herein and post him in any non-sensitive post in a far away place, without detriment to the action initiated against him. Aggrieved over the same, the State has come up with this Writ Appeal.

5. Today, when the Writ Appeal is taken up for consideration, the learned Government Advocate appearing for the appellant submitted that the respondent herein was arrested on the ground that he had demanded and accepted the bribe and thus, if the respondent is allowed to rejoin duty, the Government's objective of maintaining probity in public administration would be belittled. Thus, according to the learned Government Advocate, the order passed by the learned Single Judge needs to be interfered with.

6. Per contra, the learned counsel appearing for the respondent, by placing reliance on two judgments reported in 1991 *Writ L.R. 273 (Ambigapathy, P.S. Vs. The Director of Public Health & Preventive Medicine)* and 2015 (2) *SCALES 432 (Ajay Kumar Choudhry Vs. Union of India)*, submitted that the currency of suspension order should not be extended beyond three months and if within this period, the Memorandum of charges/charge sheet is not served on the delinquent official and if charge memo/sheet is not served,



a reasoned order must be passed for extension of the suspension. In the instant case, the respondent herein has been placed under suspension for more than three months, without any reason. Thus, the learned counsel submitted that the learned Single Judge was correct in setting aside the order of suspension and directing the appellant to post him in any non-sensitive post in a far away place, without detriment to the action initiated against him.

7. We have considered the above submissions and keeping in mind the said submissions made on either side, we have carefully gone through the materials available on record.

8. We are of the opinion that the issue involved in this case has to be decided only based on the decision of the Hon'ble Supreme Court in 2015 (2) SCALES 432 [Ajay Kumar Choudhry Vs. Union of India], wherein it has been held that the currency of suspension order should not be extended beyond three months and if within this period, the Memorandum of charges/chargesheet is not served on the delinquent official and if charge memo/sheet is not served, a reasoned order must be passed for extension of the suspension. Subsequently, the Government has also issued instructions in Letter No.13519/N/2016-1, P & AR (Per.N) Dept, dated 23.07.2015, to all Principal Secretaries to Government, Department of Secretariat and Head of Departments to follow the directions of the Hon'ble Supreme Court on the limitation period of suspension in letter and spirit.

9. In the instant case, the respondent was placed under suspension on 07.06.2010. The period of three months came to an end on 07.09.2010. Within the period, charge memo was not issued and the charge memo was issued only on 29.06.2015. Since the charge memo was not issued within the period of three months, we are of the view, applying the dictum laid down by the Hon'ble Supreme Court in the said Judgments, the respondent is entitled for the relief sought for.

10. Recently, this Court had an occasion to deal with a similar issue in W.A.[MD].No.28 of 2017, dated 12.01.2017 [S.Manirajan Vs. The District Collector, Sivagangai District, Sivagangai], wherein this Court, while setting aside the order of suspension, directed the respondents therein to reinstate the appellant therein in any non-sensitive post at a far away place forthwith.

11. Following the above, the order dated 10.01.2014 made in W.P.(MD).No.15231 of 2011 is confirmed and the Writ Appeal is dismissed. The appellant is directed to implement the order passed by the learned Single Judge within a period of eight weeks from the date of receipt of a copy of this Judgment. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(C)



To

The Principal Secretary to Government,
Home [Transport -II] Department,
Secretariat, Chennai 9.

+1 cc to MR.V.Panneer Selvam, ADVOCATE, SR NO:7159

+1cc to M/S.THE SPECIAL GOVERNMENT PLEADER, SR NO: 6896

nb

sva/sv/mms/20.02.2017/4p/4c

JUDGMENT MADE IN
W.A.[MD].No.17 of 2015
and
MP (MD) NO:1 OF 2015
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