



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.09.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.A(MD) No.1253 of 2017

and

C.M.P(MD)No.8799 of 2017

The Assistant Director(Addl In-Charge),
District Survey and Land Records,
Sivagangai District, Sivagangai. ... Appellant/Respondent

-vs-

S.Arumugam,
Sub Inspector of Survey (Under Suspension),
District Survey Office,
Sivagangai, Sivagangai District. ... Respondents / Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patents Act, to set aside the order passed in W.P(MD)No.16493 of 2013, dated 17.03.2017 and allow this writ appeal.

Prayer in WP(MD). 16493/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records on the file of the respondent in connection with the impugned order of suspension passed in impugned proceedings No. RC. A2/4649/2010 dated 28.06.2010 and consequential rejection of the revocation passed by him in his Proceeding in Na.ka.A2/4649/2010 (1) dated 07.07.2011 and quash the both and consequently direct the respondent to consider the case of the petitioner for posting him in a Non Sensitive post within the time limit that may be stipulated by this Hon'ble Court.

For Appellant : Mr.T.S.Mohammed Mohideen
Addl. Govt. Pleader
For Respondent : Mr.G.Thalaimutharasu

JUDGMENT

[Judgment of the Court was delivered by M.M.SUNDRESH, J.]

The learned Single Judge was pleased to set aside the impugned order by taking note of the fact that the suspension order was passed on 28.06.2010, continues even after seven years.

2.The learned Additional Government Pleader appearing for the appellant would submit that inasmuch as there is a power available to continue the suspension pending proceedings. The order passed by the learned Single Judge requires interference.

3.A perusal of the impugned order, dated 28.06.2010 would show that the suspension order was passed on the ground that the respondent/writ petitioner was under the judicial custody for more than 48 hours. Now, despite all these years, the trial is yet to start. There is no explanation for the delay though the charges have been framed. Law is quite settled that pendency of the criminal proceedings can never be bar for initiation and conclusion of the Departmental Proceedings. Though the suspension order has been passed on the ground that the writ petitioner/respondent was under the judicial custody for more than 48 hours, much water has flown, which thereafter, unfortunately, the writ petitioner is receiving subsistence allowance as he is not working as on today. Therefore, even in the Public Interest, taking into consideration the order passed by the learned Single Judge cannot be found fault with. The learned Single Judge has given a specific direction to the respondent/appellant reinstate the petitioner in service and post him in a non-sensitive post.

4.In such view of the matter, we are not inclined to interfere with the order passed by the learned Single Judge. Accordingly, the writ appeal stands dismissed. However, taking into consideration of the fact that the Disciplinary Proceedings are going on at a snail's pace, we direct the appellant to conclude the Disciplinary Proceedings within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(ADII)

/True Copy/

Sub-Assistant Registrar

+One cc to Mr.G.Thalaimutharasu, Advocate, SR.No.79984

+One cc to The Special Government Pleader, SR.No.80351

am/cp

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W.A(MD) No.1253 of 2017

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