



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.01.2017

CORAM:

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

W.A.[MD].No.28 of 2017
and
C.M.P.(MD).No.344 of 2017

S.Manirajan : Appellant
Vs.

The District Collector,
Sivagangai District, Sivagangai. : Respondent

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 19.10.2016 made in W.P.(MD).No.17031 of 2016, on the file of this Court.

Prayer in WP(MD). 17031/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records relating to the impugned order of the respondent dated 03.06.2016 in proceedings No. R.C.No. 1953/2015/T1 and quash the same.

For Appellant : Mr.C.Arul Vadivel @ Sekar

For Respondent : Mr.VR.Shanmuganathan
Special Government Pleader

JUDGMENT

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

This Writ Appeal has been filed as against the order dated 19.10.2016 made in W.P.(MD).No.17031 of 2016.

2. The said Writ Petition was filed by the appellant herein challenging the order of suspension dated 03.06.2016, passed by the respondent herein.

3. The case of the appellant before the learned Single Judge was that he was working as Bill Collector/Junior Assistant, at <https://hdservicescourts.gov.in/hservices/> Panchayat. Thereafter, he was promoted as Head Clerk and subsequently, transferred to Manamadurai Selection Grade Town Panchayat, on 30.01.2014. Later on, he was transferred to



Singampunari Town Panchayat, on 29.06.2015. While he was working so, there was a fire accident at the Office of the Thiruppuvanam Town Panchayat, on 08.08.2015. The Executive Officer of the said Panchayat made a complaint and on the basis of the same, a case in Crime No.363 of 2015 was registered. Thereafter, after lapse of ten months, viz., on 02.06.2016, one Palanivelerajan, Ward Councillor and one Muthuraja, the driver in the said panchayat, were arrested in connection with the said fire accident. On the confession statement made by them, the appellant herein was also implicated in the said case. Under the said circumstances, the respondent herein passed the impugned order placing the appellant under suspension, by invoking Rule 17(e)(1)(ii) of the Tamil Nadu Civil Services [Discipline and Appeal] Rules, which was challenged by the appellant by filing W.P.(MD).No.17031 of 2016. The said Writ Petition was dismissed by the learned Single Judge, on 19.10.2016. Aggrieved over the same, the present Writ Appeal has been filed.

4. Today, when the Writ Appeal is taken up for consideration, the learned counsel appearing for the appellant, 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 appellant herein has been placed under suspension more than three months, without any reason. Thus, the learned counsel for the appellant sought for quashing of the impugned order of suspension and for a direction to the respondent to permit the appellant to join duty.

5. We have heard the learned Special Government Pleader appearing for the respondent also.

6. 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, 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.



7. In the instant case, the appellant was placed under suspension on 03.06.2016. The period of three months came to an end on 02.09.2016. Within the said period, charge memo was not issued and the charge memo was issued only on 08.09.2016. 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 appellant is entitled for the relief sought for.

8. Accordingly, the order dated 19.10.2016 made in W.P.(MD). No.17031 of 2016 and also the order of suspension dated 03.06.2016 passed by the respondent are set aside and the respondent is directed to reinstate the appellant herein in any non-sensitive post at a far away place forthwith.

9. The Writ Appeal is allowed as indicated above. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar.

To
The District Collector,
Sivagangai District, Sivagangai.

+1CC to M/S.C. Arul Vadivel @ Sekar, Advocate, SR.No. 2428
+1CC to the Special Government Pleader, SR.No. 2827

JUDGMENT MADE IN
W.A.[MD].No.28 of 2017
12.01.2017

NB
AM/SKN/SAR-3/27.01.2017/3P/4C