



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.01.2017

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THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

WEB COPY

W.P.(MD) No.616 of 2017

N.C.Jayabalan

... Petitioner

-vs-

1. The District Collector,
Virudhunagar District.

2. The Personal Assistant to the
District Collector (Noon Meals)
Virudhunagar District.

3. The Commissioner,
Virudhunagar Panchayat Union,
Virudhunagar District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the entire records which culminated in the proceedings in Na.Ka.R3/23456/2015, dated 29.06.2015 on the file of the first respondent and quash the same and consequently direct the respondents to reinstate the petitioner in service as Noon Meal Organiser with all back wages and other attendant benefits within a specified time limit that may be prescribed by this Honourable Court.

For petitioner : Mr.A.R.Kannappan
For Respondents : Mr.K.P.Krishna Doss
Govt. Advocate

O R D E R

This writ petition has been filed, seeking to quash the order of the 1st respondent in Na.Ka.R3/23456/2015 dated 29.06.2015 vide which, the petitioner was suspended from service. The petitioner also sought direction to the respondents to reinstate the petitioner in service as Noon Meal Organiser with all back wages and other attendant benefits within a specified time limit that may be prescribed by this Honourable Court.

2. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents.

<https://hcservices.ecourts.gov.in/hcservices> 3. The petitioner has been appointed as Noon Meal Organiser in the year 1983; that pursuant to registration of a case in Crime No.164 of 2015, he was arrested and subsequently released on bail;



that in view of his incarceration in jail, he was placed under suspension by the 2nd respondent with effect from 27.06.2015.

4. The order of suspension is not a punishment and the relationship between the employer and the employee subsists even during the period of suspension. When there is master and servant relationship, the suspension can be effected by the employer and it cannot be questioned except on certain grounds like competence of the Authority issuing the said order, want of jurisdiction, contrary to the Rules, etc. Hence, as long as the competency of the authority issuing the suspension order is not challenged, this Court cannot interfere with the order of the suspension.

5. Admittedly, in this case, charge memo has already been issued on 08.04.2016 and that the respondents would have contemplated enquiry. In case of prolonged suspension, the Apex Court in the case of Ajay Kumar Choudhary vs. Union of India through its Secretary and another, reported in 2015 (3) CTC 119 has held that in case there is no initiation of departmental proceedings for long time, then he should be reinstated, if the delay was not on account of the delinquent employee.

6. In the present case on hand, though the petitioner has given his explanation as early as on 03.11.2016, no enquiry officer has been appointed and the petitioner is kept under prolonged suspension and he is going to retire by end of March, 2017. Once a person is suspended, he is deemed to have been under suspension unless or otherwise specifically cancelled.

7. It is seen that the allegations levelled against the petitioner are serious in nature and therefore, this Court expect the respondents to commence enquiry and complete the same as expeditiously as possible without adjourning the matter beyond three working days at any point of time and try to pass final orders on or before the date of superannuation of the petitioner. The petitioner shall cooperate for the enquiry and the enquiry officer will have to record reasons in case of any adjournment in order to avoid multiplicity of proceedings. If the petitioner is otherwise eligible to get subsistence allowance, the same shall be extended to him, if there are no legal impediment to do so.

With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/
Assistant Registrar(Writs)

/True Copy/



To:

1. The District Collector,
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2. The Personal Assistant to the
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Virudhunagar District.
3. The Commissioner,
Virudhunagar Panchayat Union,
Virudhunagar District.

+1CC to M/S.A.R.Kannappan, Advocate, SR.No. 2550

W.P.(MD) No.616 of 2017
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