

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 28.06.2017

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR**W.P(MD) .No. 18061 of 2016****in****W.M.P. (MD) Nos.13019 and 13020 of 2016**

J.Victoria Sharma

... Petitioner

Vs.

1.The Additional Director (Adminstration),
Directorate of Treasury and Accounts
Panagal Maligai,
Saithapattai,
Chennai - 600 015.

2.The District Treasury Officer,
Office of District Treasury,
District Collector's Campus,
Sivagangai District.

3.The Sub Treasury,
Ilayankudi Taluk,
Sivagangai District.

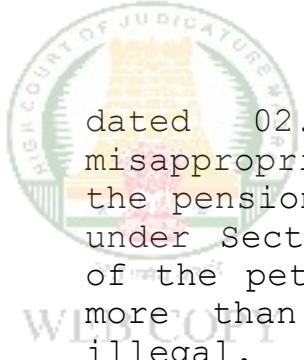
... Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 2nd respondent in No.1078/2011/A1, dated 02.02.2011 and the Consequential impugned order of the 1st respondent in Na.Ka.No. 5611/2011/Q-2, dated 14.07.2016 and quash the same and consequently direct the 1st and 2nd respondents to regularize the period of suspension with all monetary and service benefits within a reasonable time.

For petitioner : Mr.V.S.Kumaraguru.

For Respondents : Mr.J.Gunaseelan Muthiah,
Government Advocate.**ORDER**

This writ petition is filed challenging the order of suspension of the second respondent and the order refusing to revoke the order of suspension passed by the first respondent, dated 14.07.2016. The petitioner was suspended by proceedings,



dated 02.02.2011 on the allegation that the petitioner misappropriated certain amount, which is meant for disbursing to the pensioners. A criminal case was also registered on 23.03.2012, under Section 409 IPC against the petitioner. The only grievance of the petitioner is that the petitioner is under suspension for more than five years and that such prolonged suspension is illegal.

2. Heard the learned counsels for the parties and perused the records.

3. The learned counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court in the case of Ajay Kumar Choudhary vs. Union of India and Others reported in 2015(3)CTC119, where the suspension was in contemplation of the disciplinary proceedings. The Hon'ble Supreme Court has held that in a case where charge memo is not issued within a period of three months from the date of suspension, the order of suspension is liable to be questioned.

4. Having regard to the facts in the present case when the petitioner is facing criminal trial and the charges against the petitioner are serious, revoking the suspension, on the basis of the Hon'ble Supreme Court in the above said case is not appropriate.

5. The learned counsel for the petitioner also relied upon another judgment of the Hon'ble Division Bench of this Court, in the case of The Deputy Inspector General of Police, Coimbatore Range, Coimbatore vs. S.Govindaraj, reported in 2012(1)CTC124, wherein it has been held as follows:

"11. In the case on hand, admittedly, there is no allegation against the Respondent with regard to the alleged corruption charge. It is pertinent to note that after a period of six months from the date of suspension, the employee has to be paid 75% of the salary by way of Subsistence Allowance. In this case, the Respondent has been kept under prolonged suspension for a period of nearly 5 years with salary in the form of Subsistence Allowance without extracting any work from him, which is nothing but wasting of Government money. On the other hand, applying Rule 3(e)(5) of the Rules, pending trial of the Criminal Case, the suspension of the Respondent shall be revoked and as rightly held by the learned Single Judge, he can be posted in a far away place in a non-sensitive post and some work could be extracted from him for the salary paid to him. We do not find any illegality or infirmity in the order passed by the learned Single Judge, warranting our interference".



6. However, in this case, enquiry report reveals that the petitioner has misappropriated a sum of Rs.2,83,189/-. In such circumstances, it is not desirable to revoke the suspension order and hence the impugned order of the first respondent refusing to revoke the order of suspension cannot be faulted. The writ petition has no merits and deserves dismissal and hence, this Writ Petition is dismissed. No Costs. Consequently, connected miscellaneous petitions are dismissed.

Sd/-
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1.The Additional Director (Adminstration),
Directorate of Treasury and Accounts
Panagal Maligai, Saithapattai,
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2.The District Treasury Officer,
Office of District Treasury,
District Collector's Campus,
Sivagangai District.

3.The Sub Treasury,Ilayankudi Taluk,
Sivagangai District.

+1cc to M/S. V.S.Kumaraguru, Advocate, SR.No.62451.
+1cc to Special Government Pleader, SR.No.62851.

W.P (MD) .No.18061 of 2016
28.06.2017

PJL
SDS/SKN:RSK/SAR 3/06.07.2017/3P/6C