



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.04.2017

CORAM :

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P.(MD) No.6067 of 2016

and

W.M.P.(MD) Nos.5368 and 5369 of 2016

K.R.Sonamuthu

... Petitioner

Vs.

1. The Deputy Inspector of General of Police,
Tirunelveli Range,
Tirunelveli.

2. The Superintendent of Police,
Tirunelveli,
Tirunelveli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the 1st respondent in C.No.C1/19261/2014, R.O.O.No.531/2014, dated 21.11.2014, and the consequential order passed by the 1st respondent dated 20.11.2015 in C.No.C1/19261/2014, and quash the same and consequently direct the respondents to reinstate the petitioner in service.

For Petitioner

: Mr.V.Rajasekaran

For Respondents

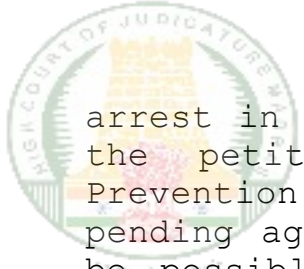
: Mr.J.Gunaseelan Muthaiah
Government Advocate.

ORDER

This Writ Petition has been filed by the petitioner to issue a Writ of Certiorarified Mandamus, challenging the order passed by the first respondent, dated 21.11.2014, and the consequential order passed by the first respondent, dated 20.11.2015 and quash the same and consequently to direct the respondent to reinstate the petitioner in service.

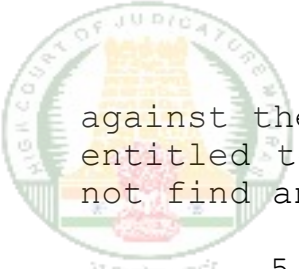
2.Heard, Mr.V.Rajasekaran, learned Counsel appearing for the petitioner and Mr.J.Gunaseelan Muthaiah, learned Government Advocate appearing for the respondents.

3.In view of my earlier judgment on this issue after considering the judgment of Honourable Supreme Court and the ~~judgment of Honourable Division Bench of this Court~~, the Writ Petition filed cannot be entertained. Admittedly, the petitioner was suspended from service, pursuant to the trap laid and his



arrest in connection with the criminal case registered as against the petitioner by the respondent under the provisions of Prevention of Corruption Act, 1988. When the criminal case was pending against the petitioner for a serious offence, it may not be possible for the authority to proceed with the departmental proceedings immediately after issuing a charge memo. The Honourable Supreme Court has also held that it is not desirable to proceed with the departmental proceedings during pendency of criminal case. In such circumstance, the only ground alleged by the petitioner that, the respondent has not initiated disciplinary proceedings by issuing the charge memo cannot be a reason to revoke the order of suspension.

4. The learned counsel for the petitioner has relied upon the judgment of Learned Single Judge of this Court in the case of K.Selvamani v. State of Tamil Nadu, reported in (2014) 4 MLJ 79 (Page No.79) and an unreported judgment of this Court by a Division Bench in the case of M.Murugan v. The Deputy Inspector General of Police in the W.A.(MD) No.100 of 2017, dated 13.02.2017. The learned counsel for the petitioner also relied upon a judgment of this Court by a Division Bench, in the case of The Deputy Inspector General of Police v. S.Govindaraj reported in 2012 (1) CTC 124. In all the cases, the prolonged suspension for a long number of years without any progress in the criminal case has been considered. Hence a direction was issued to the respondent to consider the case of the petitioner therein for revocation of suspension with a further direction to post the delinquent in any non-sensitive post. The reason assigned by this Court in the above cases, flow from the judgment of Honourable Supreme Court in the case of Ajay Kumar Choudry v. Union of India where the prolonged suspension in contemplation of departmental proceeding without issuing charge memo for more than 3 months was held bad. The case in hand is not a case where suspension was in contemplation of disciplinary proceedings. The petitioner was suspended pursuant to his arrest in connection with a criminal case registered under the provisions of Prevention of Corruption Act. Of course, in some cases without considering the different scope of the two sets of facts, some observations were made. However having regard to the fact that the petitioner was suspended by an order dated 21.11.2014, pursuant to his arrest on 20.11.2014 and the criminal case is pending after framing charges against the petitioner, the judgment of Honourable Supreme Court in Ajay Kumar Choudry vs. Union of India reported in 2015 (3) CTC 119 is not applicable in this case, where criminal case is pending against the petitioner for demanding bribe, and it is not desirable in the interest of petitioner to initiate departmental proceedings for the same set of charges simultaneously. The request of the petitioner to revoke/review the order of suspension has been negatived by giving reasons and applying principles reiterated by Honourable Supreme Court. Hence the impugned order does not suffer from any irregularity or illegality. The charges



against the petitioner are grave in nature. The petitioner is also entitled to get subsistence allowance. In such circumstance, I do not find any merits in this Writ Petition.

5.Hence this Writ Petition is dismissed. No costs. Consequently, the connected W.M.P.(MD) Nos.5368 and 5369 of 2016 are closed.

Sd/-
Assistant Registrar(C)

/True Copy/

Sub Assistant Registrar

To

1. The Deputy Inspector of General of Police,
Tirunelveli Range,
Tirunelveli.
2. The Superintendent of Police,
Tirunelveli,
Tirunelveli District.

+1cc to Special Government Pleader, SR.No. 51784
+1cc to M/S.V.Rajasekaran, Advocate SR.No. 51524

W.P. (MD) No.6067 of 2016
and
W.M.P. (MD) Nos.5368 and 5369 of 2016
11.04.2017

JM/RSK/23.05.2017/3P/5C