



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

**W.P. (MD) .No.17301 of 2013 &
M.P. (MD) .No.1 of 2013**

Kumaresan

.. Petitioner

Vs.

The Chief Educational Officer,
Virudhunagar,
Virudhunagar District.

.. Respondent

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorarified Mandamus to call for the records of the respondent in his proceedings in R.C.No.6716/A1/2011, dated 30.09.2011 and quash the same as illegal and violation of principles of law and further direct the respondent to reinstate the petitioner along with all backwages from the date of suspension.

For Petitioner

:Mr.G.Marimuthu

For Respondent

:Mr.S.Kumar

Additional Government Pleader

ORDER

This is yet another case of prolonged suspension. The petitioner was suspended for his alleged involvement in a criminal case, which was registered by the Inspector of Police, C.B.C.I.D. Virudhunagar District in Crime No.2 of 2011 for the offences punishable under Sections 465, 468, 471 and 420 IPC. The said criminal case is said to be pending even today. No departmental proceedings have been launched.

2. The petitioner earlier filed W.P.No.8624 of 2012 for a Mandamus and this Court vide order dated 27.06.2012 directed the respondent therein namely, the Chief Educational Officer, Virudhunagar District to consider the request of the petitioner for revocation of the suspension, within a period of 6 weeks from the date of receipt of a copy of the representation of the petitioner. Since no orders have been passed, the petitioner gave several representations, subsequently on 18.02.2013, 02.04.2013 and 03.06.2013. Since there was no response, the petitioner has again approached this Court with the present writ petition seeking issuance of writ of certiorarified Mandamus to quash the



suspension order dated 30.09.2011 and a direction to reinstate the petitioner with all backwages from the date of suspension.

3. The issue relating to prolonged suspension is no longer res integra. The Hon'ble Supreme Court in the decision reported in 2015 (3) CTC 119 (Ajay Kumar Choudhary v. Union of India), has held that prolonged suspension without any renewal thereof is not valid. Admittedly, in this case there is no renewal of suspension.

4. The above-said judgment of the Hon'ble Supreme Court has been followed by this Court in K.Selvamani v. The State of Tamil Nadu reported in 2017 (1) CTC 795. A recent decision of a Division Bench of this Court reported in 2017 (1) CTC 729 (M.S.Jaffar Sait v. Union of India) has re-affirmed this view.

5. It is also stated that charge sheet has also been laid in the criminal case. Therefore, I see no reason for continuing the suspension. In view of the above decisions of the Hon'ble Supreme Court as well as this Court, the impugned order of suspension, dated 30.09.2011, is quashed and Rule Nisi is made absolute. Respondent is directed to reinstate the petitioner in service within a period of four weeks from the date of receipt of a copy of this order. Since the petitioner is working as craft teacher and the said post itself not being a non-sensitive post, there is no need to direct the respondent to place the petitioner in any non-sensitive post. The question as to whether the petitioner would be entitled to backwages from the date of suspension and continuity of service will be decided based on the findings of the criminal Court. The writ petition is ordered accordingly. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Writs)

/True copy/

Sub Assistant Registrar

To

The Chief Educational Officer,
Virudhunagar,
Virudhunagar District.

+1 CC to Mr.G.Marimuthu, Advocate, SR No. 16458

+1 CC to M/s.THE SPECIAL GOVERNMENT PLEADER, SR No.17038

JIKR

PSM/SV-MMS/SAR3/06.04.2017/2P/4C

Order made in
W.P.(MD).No.17301 of 2013 &
M.P.(MD).No.1 of 2013
21.03.2017