

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.1023 of 2017 & CMP Nos.14398 & 14593 of 2017
and WA No.1032 of 2017 & CMP No.14397 of 2017

WA No.1023/2017

The Revenue Divisional Officer,
O/o. The Revenue Divisional Officer,
Villupuram, Villupuram District. ... Appellant

versus

S.Srinivasan
Village Administrative Officer (Under Suspension) ... Respondent

WA No.1032/2017

The Tahsildar,
Taluk Office, Vikravandi,
Villupuram District. ... Appellant

versus

R.Ramesh
Village Assistant (under Suspension) ... Respondent

Appeals filed against the order passed by this Court dated 26.09.2016 and 21.11.2016 passed in W.P.Nos. 8033 of 2016 & 39574 of 2016 respectively.

WP No.8033/2016: Writ petition filed under Article 226 of the constitution of India, praying for issuance of a writ of certiorarified Mandamus, to call for the records of the Proceedings of the respondent issued in A/5/3575/2015 dated 15.07.2015 and Quash the same with the consequential Direction, directing the respondent to reinstate the Petitioner into service with all benefits

WP.39574/2016: Writ Petition filed under Article 226 of the constitution of India, praying for the issuance of a writ of certiorari mandamus, calling for the records of the proceedings of the respondent issued in A5/3536/2015 dated 15.7.2015 and quash the same

For Appellant : Mrs. Narmadha Sampath, AAG
(in both the Appeals)
for Mr.V.Anandhamoorthy, AGP

For Respondent : No appearance
(in both the Appeals)

C O M M O N J U D G M E N T
(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

These intra Court Appeals have been filed by the appellants challenging the orders of the learned Single made in WP No.8033 of 2016 and 39574 of 2016 dated 26.09.2016 and 21.11.2016 respectively.

2. The Writ Petitions were filed by the respondents herein challenging the orders of suspension passed by the Tahsildar, Vikravandi, on the ground that a Criminal Case was registered against the respondents herein, by Vigilance and Anti Corruption Department in Crime No.3 of 2015, under Section 7 and 13(2) read with 13 (1) (d) of the Prevention of Corruption Act 1998 on 15.07.2015 and the respondents were also arrested pursuant to the said Criminal Case.

3. The sole ground of challenge to the order of the suspension is that the same has not been reviewed after the expiry of three months as required in Ajay Kumar Choudhary v. Union of India, through its Secretary and another, reported in 2015 (7) SCC 291. The respondents contended that no charge memo has been issued till date and therefore they sought for revocation of the orders of the suspension. The learned Single Judge for identical reasons allowed both the Writ Petitions, quashing the orders of suspension.

4. Aggrieved, the Revenue Divisional Officer, Villupuram District and the Tahsildar, Vikravandi have come forward with the above intra Court Appeals.

5. We have heard Mrs.Narmada Sampath, learned Additional Advocate General appearing for Mr.V.Anandamoorthi, learned Additional Government Pleader for the appellants. Despite repeated adjournments, the learned counsel for the respondents has not appeared. Even today, there is no representation on the side of the respondents.

6. Mrs.Narmada Sampath, learned Additional Advocate General appearing for the appellant would submit that the respondent in Writ Appeal No.1023 of 2017 was in fact reinstated in service by the proceedings of the Revenue Division Officer, Villupuram dated 20.03.2018. However, the respondent in Writ Appeal No.1032 of 2017 has not been reinstated as yet.

7. Mrs.Narmada Sampath, learned Additional Advocate General would further contend that the reinstatement of the said Thiru.S.Srinivasan, respondent in Writ Appeal No.1023 of 2017, cannot in offer a ground for the respondent in Writ Appeal No.1032 of 2017 to seek reinstatement. It is also submitted that the Charge Memo has been issued to Thiru. S.Srinivasan, the respondent in Writ Appeal No.1023 of 2017 on 22.03.2018 and to Thiru. R.Ramesh, the respondent in Writ Appeal No.1032 of 2017 on 16.07.2018. It is also stated that the respondent in Writ Appeal No.1023 of 2017 has sought for time for filing his reply.

8. Turning to the facts of the case, Mrs.Narmada Sampath, learned Additional Advocate General would submit that both the respondents were arrested by the Vigilance and Anti Corruption Department, while accepting bribe from one Mr.Iyanar S/o. of Natarajan. They were in fact trapped. Therefore, considering the seriousness of the delinquencies, the learned Additional Advocate General would contend that the suspension should not have been revoked by this Court straight away without affording an opportunity to the Authorities to review the orders of suspension in view of the passage of time. Even in Ajay Kumar Choudhary's case, cited supra, the Hon'ble Supreme Court has only said that it is for the Authorities concerned to revisit the question of suspension, after a period of 3 months, from the date of the original suspension. In fact, the Supreme Court had said that a reasoned order must be passed for the extension of suspension.

9. We are therefore of the considered opinion that suspension in cases where the delinquency complained relates to Corruption and Criminal proceedings have been taken at the instance of the Vigilance & Anti Corruption Wing, cannot be

revoked merely on the ground of delay. It is for the Authorities to decide as to whether a suspension should be revoked or extended. In both the cases on hand, charge memos have been served on the delinquent officials and therefore, it is only for the Authorities to consider whether the suspension should be revoked or continued based on the facts and circumstances of the case.

10. The learned Single Judge was not right in quashing the suspension orders and directing reinstatement of the respondents in these Writ Appeals in non sensitive place. We are therefore constrained to allow the Appeals and set aside the order of the learned Single Judge.

11. We further direct the appellants to revisit the orders of suspension based on the judgment of the Hon'ble Supreme Court in Ajay Kumar Choudhary's case, and pass reasoned orders on the desirability or otherwise regarding continuance of the suspension of the respondents in these Appeals. While doing so, the appellants shall bear in mind the fact that the respondent in Writ Appeal No.1023/2017 has already been reinstated in service and he has been working since March 2018. Since the charge memo has been served on respondents, the Government is directed to take appropriate steps for completion of the enquiry within a reasonable time, in any event not later than six months from the date of receipt of a copy of this order. In the circumstances, there will be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VII)

// True Copy//

Sub Assistant Registrar

To

1. The Revenue Divisional Officer,
O/o. The Revenue Divisional Officer, जयते
Villupuram, Villupuram District.

2. The Tahsildar,
Taluk Office, Vikravandi,
Villupuram District.

+1cc to Government Pleader SR.No.49374

W.A.No.1023 of 2017 & CMP Nos.14398 & 14593 of 2017
and WA No.1032 of 2017 & CMP No.14397 of 2017

SPB(CO)
SMI/14.08.2018