

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K. SASIDHARAN
and
THE HONOURABLE MR.JUSTICE P. VELMURUGAN

W.A.No.762 of 2017
and C.M.P.Nos.10497 and 10498 of 2017

L. Jesurajan Appellant/Petitioner
-vs-

1. The Deputy Inspector General of Police,
Vellore Range, Vellore District.
2. The Superintendent of Police,
Tiruvannamalai District
3. The Inspector of Police,
Vigilance and Anti Corruption Department,
Tiruvannamalai District

..... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent
against the order passed in W.P.No.12222 of 2017 dated
10.05.2017.

prayer in wp.12222 of 2017:

this writ petition is filed Under Article 226 of the
Constitution of India, seeking for a writ of certiorarified
mandamus to call for the records relevant to the order in Na.Ka.
No.H.1/20253/16 dated 3.4.2017 passed by the 2nd respondent and
quash the same as illegal, improper, unreasonable, arbitrary
against the principles of natural justice and thereby direct the
1st respondent to reinstate the petitioner into his service with
effect from 21.9.2016 with all back wages.

For Appellant : Mr.S.T. Natramil Kaviarasan

For respondents: Ms.A. Sreejyanthi
Spl. Govt. Pleader

JUDGMENT
[Judgment of the Court was delivered by
K.K. SASIDHARAN, J.]

The request made by the appellant for revoking his suspension was negated by the Superintendent of Police, Tiruvannamalai by Order dated 03.04.2017. The said order was unsuccessfully challenged before the Writ Court. Feeling aggrieved the appellant is before us.

2. We have heard the learned counsel for the appellant and we have also heard the learned Special Government Pleader on behalf of the respondents.

3. The appellant, who was working as a Sub Inspector of Police, was placed under suspension by the Superintendent of Police, Tiruvannamalai on account of his involvement in a criminal case registered under the provisions of the Prevention of Corruption Act. The disciplinary authority suspended the appellant by Order dated 22.09.2016. The appellant submitted a representation for revoking his suspension. The request was rejected by Order dated 03.04.2017. The appellant challenged the order dated 03.04.2017 before the Writ Court in W.P.No.12222 of 2017.

4. Before the Writ Court, the appellant cited the judgment of the Hon'ble Supreme Court in *Ajaykumar Choudry vs Union of India* (2015 (1) SCALE 432) and submitted that his case should be reviewed periodically.

5. The learned Single Judge dismissed the writ petition with an observation that the law laid down by the Hon'ble Supreme Court in *Ajaykumar Choudry vs Union of India* (2015 (1) SCALE 432) would not be applicable to the employees, who are booked under the Prevention of Corruption Act. The said Order is under challenge before us.

6. There is no dispute that the appellant is involved in a criminal case, registered by the Vigilance and Anti Corruption, Tiruvannamalai. The second respondent suspended the appellant by Order dated 22.09.2016 on account of his involvement in a criminal case booked under the provisions of the Prevention of Corruption Act. The appellant, by way of a representation, requested the disciplinary authority, to review the suspension. Since the appellant was arrested by the police on 21.09.2016 and remanded to judicial custody and prosecuted under the provisions of the Prevention of Corruption Act, the disciplinary authority was not prepared to revoke his suspension.

7. The issue is as to whether the appellant is entitled to the benefit of the law laid down by the Hon'ble Supreme Court in Ajaykumar Choudry vs Union of India (2015 (1) SCALE 432) cited supra.

8. In Ajaykumar Choudry, the Hon'ble Supreme Court directed the disciplinary authority to consider the question of revoking the suspension periodically. The said judgment is not restricted to normal cases. The Hon'ble Supreme Court has nowhere stated that the judgment would not apply to those who were involved in a criminal case, registered by the Vigilance and Anti Corruption. Though the appellant has no right to demand that his suspension should be revoked, he has got a right to call upon the disciplinary authority to review his suspension.

9. We are therefore of the view that the learned Single Judge was not correct in dismissing the writ petition with an observation that the Ajaykumar Choudry case would not apply in case the employees were prosecuted under the provisions of Prevention of Anti Corruption Act.

10. In the result, the order dated 10.05.2017 is set aside. The writ petition in W.P.No.12222 of 2017 is disposed of with a direction to the disciplinary authority to consider the case of the appellant for revocation of suspension on merits and in accordance with law and more particularly, in the light of the law laid down in Ajaykumar Choudry vs Union of India (2015 (1) SCALE 432).

11. We make it clear that we have not expressed any opinion on the merits of the matter. It is for the disciplinary authority to consider the issue purely on merits.

12. The intracourt appeal is allowed to the extent indicated above. No costs. Consequently, connected CMPs are closed.

Sd/-

Assistant Registrar(CS-vi)

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Sub Assistant Registrar

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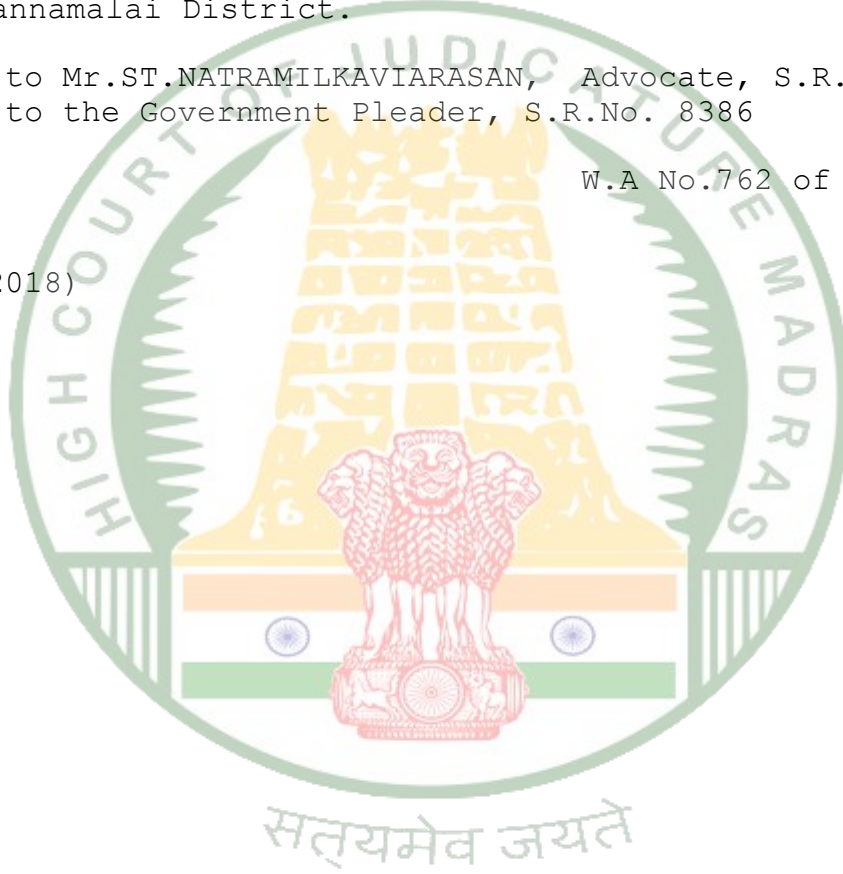
To

1. The Deputy Inspector General of Police,
Vellore Range, Vellore District.
2. The Superintendent of Police,
Tiruvannamalai District
3. The Inspector of Police,
Vigilance and Anti Corruption Department,
Tiruvannamalai District.

+1cc to Mr.ST.NATRAMILKAVIARASAN, Advocate, S.R.No. 8057
+1cc to the Government Pleader, S.R.No. 8386

W.A No.762 of 2017

AK(CO)
TR(01/03/2018)



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