

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2018

CORAM:

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

W.A.No.411 of 2018
and C.M.P.No.3519 of 2018

The Principal Secretary to Government
Home Department,
Secretariat, Chennai - 9. Appellant

-vs-

K.Thangavel Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent against the order passed in W.P No.14471 of 2017 dated 12.06.2017.

PRAYER IN W.P No.14471 of 2017:

Writ petition filed Under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the respondent in G.O.Ms.(2D) No.229 Home (Police 2) Department dated 06.07.2015 and quash the same and consequently directing the respondent to reinstate the petitioner as Deputy Superintendent of Police in any available vacancy within a stipulated time.

For Appellant : Mr.V.Anandhamoorthy, AGP
For Respondent : Mr.R.Singaravelan, S.C.
For M/s.Swarnam J.Rajagopalan

J U D G M E N T

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

This intra court appeal is directed against the order dated 12.06.2017 in W.P.No.14471 of 2017, whereby and whereunder the learned single Judge after quashing the order of suspension dated 06.07.2015 directed the appellants to reinstate the

respondent as Deputy Superintendent of Police in any available vacancy within a period of two weeks. Feeling aggrieved, the appellants have come up with this intra court appeal.

2. We have heard the learned Additional Government Pleader for the appellant and Mr.R.Singaravelan, learned Senior Counsel appearing for the respondent.

3. The factual matrix indicates that the appellant was suspended from service by order dated 06.07.2015 pending initiation of disciplinary proceedings. There was a criminal case registered against the respondent and five others in Crime No.208 of 2015 under various provisions of the Indian Penal Code. The complaint was registered before the Ambur Taluk Police Station. As a consequential action, the respondent was placed under suspension by the disciplinary authority.

4. The respondent filed a Writ Petition in W.P.No.14471 of 2017 primarily on the ground that it was a case of prolonged suspension.

5. The learned single Judge by placing reliance on the judgment of the Supreme Court in the case of Ajay Kumar Choudhary V. Union of India (2015 (7) SCC 291) quashed the very order of suspension and directed the appellants to reinstate the respondent in service.

6. The question is as to whether the suspension of the employee should be quashed by a Court without giving an opportunity to the authority to review the order.

7. There is no question of the Court exercising the power of judicial review in a matter of suspension. It is true that the Honourable Supreme Court in Ajay Kumar Choudhary (supra) directed the State to review the suspension periodically. However, that would not give power to the Court to revoke the order of suspension and direct the State to reinstate the employee, without reference to the background facts.

8. We are, therefore, of the view that the learned single Judge was not justified in quashing the impugned order of suspension.

9. We, therefore, set aside the order dated 12.06.2017 in W.P.No.14471 of 2017 quashing the impugned order of suspension and the consequential direction for reinstatement.

10. We modify the order dated 12.06.2017 passed by the learned single Judge by directing the appellants to review the suspension of the respondent on merits and in accordance with

law and take a decision as to whether the continued suspension is necessary on the facts and circumstances of the case. Such exercise shall be completed within a period of two months from the date of receipt of a copy of this judgment.

11. The intra court appeal is allowed to the extent indicated above. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

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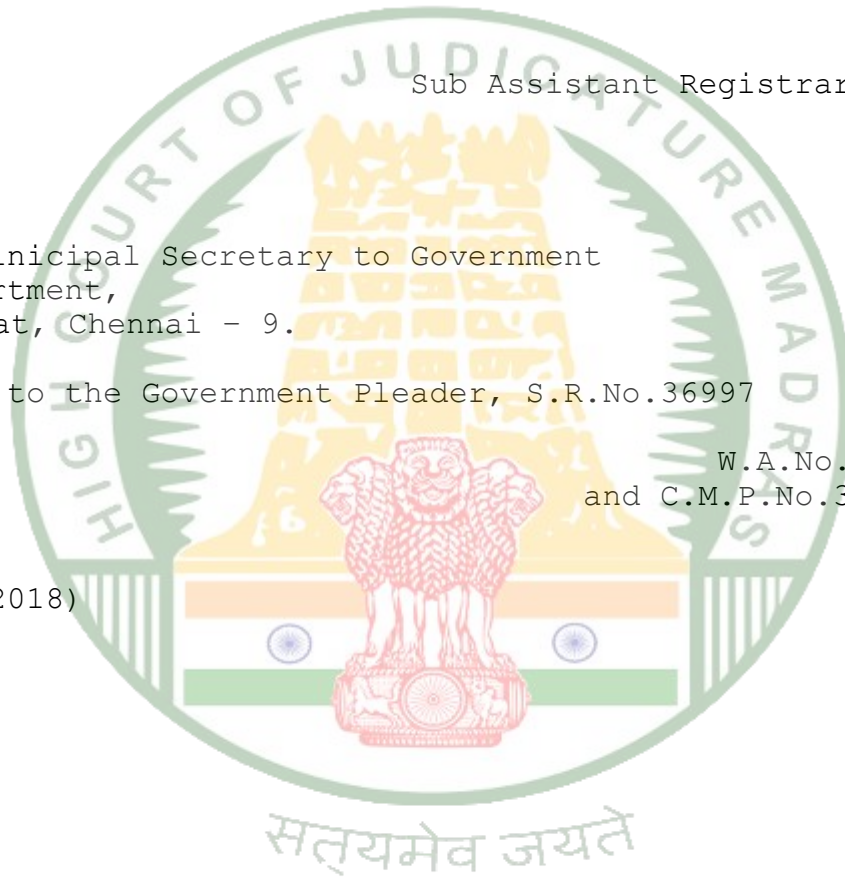
TO

1. The Principal Secretary to Government
Home Department,
Secretariat, Chennai - 9.

+1cc to the Government Pleader, S.R.No.36997

W.A.No.411 of 2018
and C.M.P.No.3519 of 2018

JP (CO)
TR(21/06/2018)



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