

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE SATRUGHANA PUJAHARI

W.P.No.22346 of 2018

D.Sivasankar

...Petitioner

Vs

1. The Managing Director,
Tamil Nadu State & Marketing Corporation,
Chennai 600 008

2. The Manager,
Tamil Nadu State & Marketing Corporation,
Cuddalore District,
Cuddalore.

.. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for a writ of Mandamus directing the respondents to pas order on the representation dated 06.04.2017 given by the petitioner and consequently revoking the order of suspension passed by the 2nd respondent in his proceeding Se.Nu.No.RVI/3081/2477/2017 dated 06.01.2017 in the light of the judgment of the Hon'ble Supreme Court of India reported in 2015(2) Scale (43) Ajay Kumar Choudhry Vs.Union of India and the instruction given by the State Government in No.13519/N/2015/1 dated 23.07.2015 and the order passed in WP.No.(MD) No.18514/2015 dated 14.10.2015.

For Petitioner : Mr.R.Gururaj

For Respondents: Mr.B.Neduncheziyan
Standing Counsel

ORDER

The grievance of the petitioner in this case is that without any charge memo and charge sheet, he has been put under suspension by the respondents vide an order dated 06.01.2017 in Se.Nu.No.RVI/3081/2477/2017 against which, he has made a representation indicating the fact that the suspension order issued without giving charge memo is illegal and as such, the

same may be given a re-look and be reviewed. But the same having not been disposed of by the authorities concerned, the petitioner has come forward to file this writ petition with a direction to consider his representation in the light of law laid down by the Apex Court in case of [Ajay Kumar Chowdary v. Union of India], 2015 (7) SCC 291.

2. Learned counsel for the petitioner submits, that there being no charge memo or charge sheet against the petitioner, his order of suspension for such a pro-longed period is illegal, in view of the law laid down by the Apex Court in the case of [Ajay Kumar Chowdary v. Union of India], 2015 (7) SCC 291.

3. Mr.B.Neduncheziyan, learned counsel appearing for the respondents submits that if such representation is pending, the same shall be considered in accordance with law but no fetter to be put on the respondents to consider his representation in any particular manner in the absence of reply affidavit.

4. The Hon'ble Supreme Court of India in the case of [Ajay Kumar Chowdary v. Union of India], 2015 (7) SCC 291 has held in paragraphs 11 as under :

"11. Suspension, specially preceding the formulation of charges, is essentially transitory or temporary in nature, and must perforce be of short duration. If it is for an indeterminate period or if its renewal is not based on sound reasoning contemporaneously available on the record, this would render it punitive in nature. Departmental/disciplinary proceedings invariably commence with delay, are plagued with procrastination prior and post the drawing up of the memorandum of charges, and eventually culminate after even longer delay.

5. Regard being had to the facts and circumstances and submissions made, especially the nature of relief sought for, this Court dispose of this writ petition at the stage of admission without seeking a reply affidavit with a direction to the respondents 1 and 2 to take an informed and considered decision on the representation of the petitioner to revoke/review the order of suspension in the light of law laid down by the Apex Court in case of [Ajay Kumar Chowdary v. Union of India], 2015 (7) SCC 291, if there is no other legal impediment, within a period of four weeks from the date of receipt of copy of this order. However, it is made clear that this order should not be treated as a mandate of this Court to dispose of the representation in any particular manner.

6. With the aforesaid order, this writ petition stands disposed of. No cost.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Managing Director,
Tamil Nadu State & Marketing Corporation,
Chennai 600 008
2. The Manager,
Tamil Nadu State & Marketing Corporation,
Cuddalore District,
Cuddalore.

+1cc to Mr.B.Nedunchezhiyan, Advocate Sr.60342

WP.22346 of 2018

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