

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 21.12.2018

CORAM

THE HON'BLE DR. JUSTICE S.VIMALA

Writ Petition No.15122 of 2018
& WMP No.17882 of 2018

S.Muthuazhagan

.. Petitioner

- Vs -

1. The District Collector, Kancheepuram

2. The District Revenue Officer,
Kancheepuram

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus to call for the records of the first respondent in Rc.A.3/13196/2017, dated 22.07.2017, to quash the same and consequently to direct the respondents to permit the petitioner to rejoin duty / service as Revenue Inspector with all attendant / consequential benefits.

For Petitioner : Mr. A.Jenasenan

For Respondents: Mr. A.N.Thambidurai, Spl.G.P.,

O R D E R

This writ petition has been filed by the petitioner seeking to quash the order passed in Rc.A.3/13196/2017, dated 22.07.2017, (by which the petitioner was suspended from service with effect from 18.07.2017) and to direct the respondents to permit the petitioner to rejoin duty / service, as Revenue Inspector with all attendant / consequential benefits.

Brief facts:-

2. The petitioner joined in the office of the Ultra Mega Power Project, Cheyyur, on 18.01.2013, as Assistant Grade I Revenue Inspector. Subsequently, he was transferred to various Departments and posted to Taluk Office, Alandur. When the petitioner was in duty at Alandur Taluk office, a complaint was given by one K.Mohanasundaram stating that the petitioner

demanded Rs.2,50,000/- for conversion of classification of land from freehold land to Ryotwari Land and further stated that the said amount would be shared between RDO and Tahsildar. It is stated that Mohanasundaram was not in a position to pay the entire amount, so he was asked to pay a sum of Rs.1,00,000/- as advance. Hence, a complaint was came to be given by Mohanasundaram on 17.07.2017. Based on the said complaint, FIR was registered by Vigilance and Anti Corruption Wing, in Crime No.4 of 2017 under Section 7 of the P.C.Act. Thereafter the petitioner was arrested and released on bail. The petitioner was served with an order of suspension dated 22.07.2017 with effect from 18.07.2017. The petitioner addressed several representations before the respondents requesting for revocation of suspension order. However, the same did not evoke any response. Hence, the petitioner has approached this Court by way of this writ petition seeking mandamus.

3. It is submitted by the learned counsel appearing for the petitioner that the petitioner was in suspension on and from 22.07.2017; neither charge sheet has been filed nor review of suspension order has been made.

4. It is to be pointed out that, as per the reported decision in the case of Ajay Kumar Choudhary vs Union Of India, Thr. its Secretary & another, in CIVIL APPEAL No. 1912 OF 2015 (Arising out of SLP No. 31761 of 2013), prolonged suspension is illegal. In the said decision, in paragraph 8, it has been observed as follows:-

"8. 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. The said decision squarely applies to the facts of the case and the proposition laid down therein has been subsequently followed in various other decisions of the Supreme Court as well as this Court. Further, in this case, only criminal case is pending and no departmental proceedings have been initiated.

6. Under such circumstances, the respondents are directed to revoke the order of suspension passed against the petitioner by imposing appropriate terms and conditions (if need be) and by posting him in any non-sensitive post. Such an order shall be

passed by the respondents forthwith, not later than two weeks from the date of receipt of a copy of this order.

7. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected WMP is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

srk

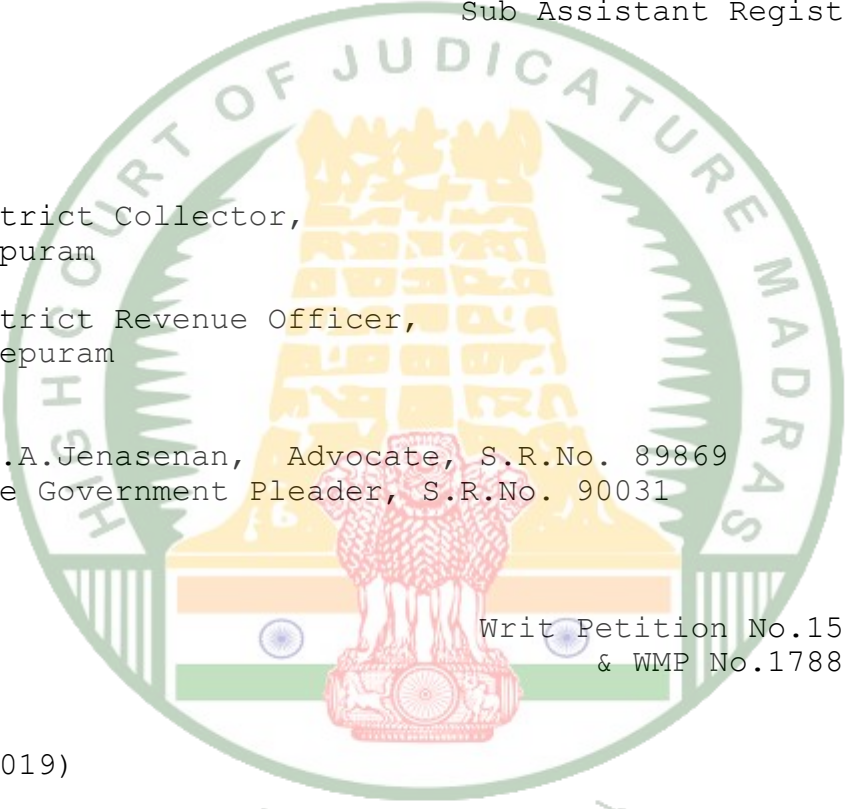
To

1. The District Collector,
Kancheepuram
2. The District Revenue Officer,
Kancheepuram

+1cc to Mr.A.Jenasenan, Advocate, S.R.No. 89869
+1cc to the Government Pleader, S.R.No. 90031

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SJ(CO)
GN(25/01/2019)



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