

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2018

CORAM:

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.23814 of 2018
and W.M.P.No.27753 of 2018

K.Prabu

... Petitioner

Vs.

The Principal Secretary/Transport
Commissioner,
Chepauk,
Chennai - 600 005.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus, to call for the records on the file of the respondent in his proceedings Proc.R.No.42353/VB1/2017 dated 30.10.2017 and Proc.R.No.42353/VB1/2017 dated 30.08.2018 and to quash the same and consequently direct the respondent herein to forthwith reinstate the petitioner.

For Petitioner : Mr.M.Ravi

For Respondents : Mr.A.N.Thambidurai,
Special Government Pleader

ORDER

The order of deemed suspension dated 30.10.2017, putting the petitioner, who was working as Motor Vehicles Inspector Grade-I, Regional Transport Office, Pudukottain, under suspension from 26.10.2017, is under challenge in this writ petition.

2. The learned counsel for the petitioner submitted that even though one year lapsed, no charge sheet has been filed and there is no application of mind in extending the order of suspension, as mandated by the Judgment of the Hon'ble Supreme Court in the case of "Ajay Kumar Choudhary Vs Union of India" reported in (2015) 7 SCC 291 and "State of Tamil Nadu Vs Pramod Kumar" reported in 2018 SCC Online SC 1079. Therefore, it is claimed that the prolonged suspension is unwarranted and the order of suspension should be revoked and the petitioner may be put in any non-sensitive place.

3. The learned Special Government Pleader appearing for the

respondent submitted that the petitioner is an accused in respect of the case registered under Section 7, 12, and 13(1)(d) r/w 13(2) of Prevention of Corruption Act, 1988 and when such serious allegations are made against the petitioner, revocation of suspension cannot be considered at this stage.

4. The Hon'ble Supreme Court in the case of "Ajay Kumar Choudhary Vs Union of India" reported in (2015) 7 SCC 291 and "State of Tamil Nadu Vs Pramod Kumar" reported in 2018 SCC Online SC 1079, held that the currency of suspension should not extend beyond the period of three months. The relevant observation reads as under:

"We, therefore, direct that the currency of a suspension order should not extend beyond three months, if within this period, the Memorandum of Charges / Charge sheet is not served on the delinquent officer / employee; if the Memorandum of Charges / Charge sheet is served, a reasoned order must be passed for the extension of suspension. We think this will adequately safeguard the universally recognized principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution."

4A. It is represented that no charge sheet has been filed.

5. Therefore, following the principles laid down in the aforesaid landmark Judgment of the Supreme Court, the order of suspension dated 30.10.2017 passed by the respondent is ordered to be revoked and the respondent is directed to reinstate the petitioner in service and post him in any non sensitive post, within a period of eight weeks from the date of receipt of a copy of this order. In case, charge sheet has been filed, the respondent is at liberty to extend the order of suspension by giving reasons.

6. With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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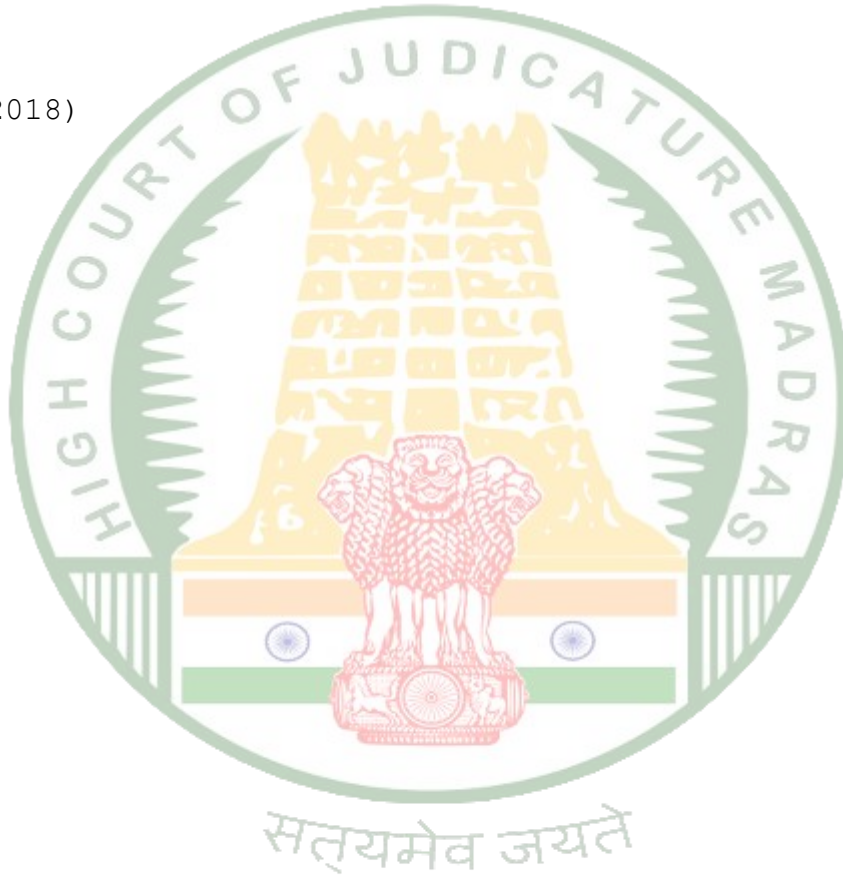
The Principal Secretary/Transport
Commissioner,
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Chennai - 600 005.

+1 CC to Mr.M.Ravi, Advocate sr 84717.

+1 CC to The Govt. Pleader sr 85462.

W.P.No.23814 of 2018

SP(21/12/2018)



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