

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2018

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

W.P.No.16383 of 2018

and

W.M.P.No.19540 of 2018

M.Babu

... Petitioner

Versus

1.The District Educational Officer,
Thiruvallur District.

2.The District Educational Officer,
Boys School Compound,
Tirutani District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for records and quashing the impugned order of the 1st respondent dated 15.06.2012 vide Rc.No.2440/A1/2012 suspending the petitioner from service as Lab Assistance with effect from 08.06.2012 at Government Boys Higher Secondary School, R.K. Pet, Thiruvallur District and consequently direct the respondents to reinstate the petitioner in the post of Lab Assistant within time frame, with all attendant benefits.

For Petitioner : Mr.Ravi Anantha Padmanaban

For Respondents : Mrs.P.Kavitha,
Government Advocate (Education)

ORDER

The petitioner, who was working as Lab Assistant in the Government Boys Higher Secondary School R.K.Pet, Thiruvallur District, by proceedings dated 15.06.2012, was placed under suspension from 08.06.2012, on the allegation that he demanded a sum of Rs.400/-. In respect of this allegation, a case has been registered by the Vigilance and Anti Corruption Police, Kanchipuram and it was taken on filed as Special C.C.No.7 of 2013

2. The petitioner claims that he has to maintain his wife, aged mother and a disabled daughter. The petitioner has specifically stated that the trial is prolonging and considering his family circumstances, the suspension has to be revoked. Even though he submitted a representation dated 27.05.2016 to the first respondent, seeking revocation of suspension, no further order has been passed by the first respondent till date. Hence, the writ petition has been filed.

3. The learned counsel appearing for the petitioner submitted that the petitioner is a lab assistant, therefore, he will not be in a position to tamper with any documents. Hence, the order of suspending may be revoked.

4. The learned Government Advocate appearing for the respondents submitted that the writ petition filed by the petitioner in W.P.No.31687 of 2017, seeking revocation of suspension was dismissed by this Court, by an order dated 07.12.2017. Hence, this is the second round of litigation by way of filing this writ petition, seeking the same relief, which is not maintainable.

5. The Hon'ble Supreme Court, in the cases 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 prolonged suspension is illegal.

6. From the perusal of records, it appears that criminal case in Special C.C.No.7 of 2013 on the file of the Chief Judicial Magistrate Tiruvallur, from the year 2013 onwards.

7. It is for the respondents to take steps either to expedite the trial or to pass orders on the request of the petitioner seeking revocation of suspension. But, such steps have not been taken by the respondents.

8. Under such circumstances, the trial Court, namely, the learned Special Judge-cum-Chief Judicial Magistrate, Tiruvallur is directed to dispose of the trial proceedings in Special C.C.No.7 of 2013, within a period of three months from the date of receipt of a copy of this order.

9. In the meantime, the order of suspension dated 15.06.2012 is ordered to be revoked on the ground that it is a prolonged suspension, following the principles laid down in the aforesaid land mark Judgment of the Supreme Court and the respondent is directed to reinstate the petitioner in service and post him any non sensitive post, within a period of two weeks from the date of receipt of a copy of this order.

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

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ogy/klt

To

1.The District Educational Officer,
Thiruvallur District.

2.The District Educational Officer,
Boys School Compound,
Tirutani District.

+1cc to Mr. K.Ravi Anandha Padmanabhan, Advocate, S.R.No. 83087

+1cc to the Government Pleader, S.R.No. 84012

W.P.No.16383 of 2018
and
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RK(CO)
GN(02/01/2019)



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