

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2018

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA

Writ Petition No.16744 of 2018

P.Venkatesh

... Petitioner

..vs..

1. The Commissioner of Police
Office of the Commissioner of Police Vepery
Chennai-07
- 2 The Deputy Commissioner of Police
Office of the Deputy Commissioner of
Police Washermenpet Dt. Chennai-81 ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the first Respondent to consider and dispose of the petitioner's representation dated 14.04.2018.

For Petitioner : Mr.M.Jayaveerapandian
for M/s Lawman Associates
For Respondents : Mr. A.N.Thambidurai, Spl.G.P.,

ORDER

The petitioner, who face suspension order, dated 25.05.2017 has given representation to the second respondent on 23.06.2017 seeking revocation of suspension.

2. The learned Special Government Pleader appearing for the respondents would point out that a case has been registered against the petitioner in Crime No.844 of 2017 under Sections 341, 294 (b), 323 and 506 (i) IPC by the K-11 Police Station, Koyambedu, Chennai, and a charge sheet has also been filed against the petitioner herein.

3. Be that as it may. The Hon'ble Apex Court, in the case of Ajay Kumar Choudhary vs Union Of India Thr, Its Secretary in CIVIL APPEAL No.1912 OF 2015 (Arising out of SLP No. 31761 of 2013), in paragraph 8, has held 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."

3.1. The said dictum has been subsequently reiterated by the Apex Court in very many subsequent decisions.

3.2. There is also a requirement that, once in three months, the suspension has to be reviewed and to be extended for reasons to be recorded. That requirement has not been satisfied. Moreover, the prosecution is not connected with the discharge of official duties. Therefore, there is no public interest involved in placing the petitioner under suspension.

4. Under the stated circumstances, the respondents are directed to revoke the suspension order, in the light of the legal principles enunciated above and to pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order.

5. With the above directions, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

srk

To

1. The Commissioner of Police
Office of the Commissioner of Police,
Vepery, Chennai-07

2 The Deputy Commissioner of Police
Office of the Deputy Commissioner of
Police Washermenpet Dt. Chennai-81

+2cc to Mr.Lawman Associates, Advocate, S.R.No. 84066
+1cc to the Government Pleader, S.R.No. 84471

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VGII (CO)
GN (21/01/2019)