IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2018

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THE HON'BLE DR. JUSTICE S.VIMALA

W.P.No.29728 of 2018
and W.M.P.No.34683 of 2018

Babu .... Petitioner

- Vs -

1. The Principal Secretary/Commissioner of Treasuries and Accounts, Teynampet, Chennai - 35.

2. Mrs.Chithra John Fernando, Additional Director of Treasuries (Admin), Chennai - 600 015.

3. The Joint Director of Treasuries (Admin), Chennai - 600 015.

4. Pay & Accounts Officer, Pay & Accounts Office (East), Chennai - 600 008. .... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of writ of certiorari, to call for the records of the 1st respondent made in proceedings R.C.No.40682/Q2/2018 dated 23.10.2018 and to quash the same.

For petitioner : Mrs.K.Annamma

For Respondents : Mr.R.S.Selvam, Government Advocate

ORDER

By the order dated 23.10.2018, the petitioner herein, an Office Assistant at Pay and Accounts Office, was placed under suspension from service with immediate effect, by the order of the Commissioner of Treasuries and Accounts. This suspension order was on the ground that the petitioner had made a false complaint against the higher officials of Treasuries and Accounts Department and failed to maintain decency and decorum of office and acted in a manner, which is unbecoming of a

Government Servant. Challenging the order of suspension, this writ petition has been filed.

Facts in brief:

2. The petitioner was appointed as an Office Assistant on 03.10.2007 under Rule-4A of the Tamil Nadu Fundamental Rules. He was working at Commissionerate of Treasuries, Chennai-1.

2.1. The second respondent belongs to Christan Community. The petitioner believed that she was favourably inclined to effect transfer to the people belonging to Christian Community and that she developed confrontation with the petitioner due to difference in ideology followed by the petitioner (who belongs to Hindu Community). The petitioner was transferred from one place to other place on three occasions within a period of 2 ½ years without any rhyme or reason is the grievance of the petitioner.

2.2. It is claimed by the petitioner that the second respondent was compelling him to convert himself from Hindu Religion to Christan religion; that she was also threatening him to withdraw the complaint; the higher officials, namely, first and second respondents, had been threatening that if the complaint is not withdrawn, the petitioner would be placed under suspension and shockingly, the petitioner received the order of suspension also on 25.10.2016 and this order is under challenge.

3. Counter affidavit has been filed by the second respondent, wherein, it is stated that the complaint of religious favoritism has been made with a mala fide intention and to tarnish her image; if departmental proceedings are initiated against her, it would give room for the petitioner to make further allegations and only in order to avoid such circumstances, the Head of the Department, i.e. the superior authority to the second respondent, took a decision to proceed against the petitioner by himself; the transfer made on three occasion as claimed by the petitioner was not made by the second respondent.

4. The complaint made by the petitioner was enquired into by the Personal Assistant to the first respondent and on the basis of the report submitted to the first respondent, it came to light that the complaint against the second respondent made by the petitioner was false. As the conduct of the petitioner amounted to willful disobedience and as against the decency and decorum of the office, he was placed under suspension.

5. At the time of admission itself, after hearing both parties, this Court expressed a view that there are different methods for handling different type of irregularities and unless

the reprehensible conduct affects the administrative, placing a person under suspension is not necessary and in some cases, a mere counselling would be able to correct a person.

6. The problem between the petitioner and the second respondent seems to be on account of misunderstanding and gap in the communication and does not appear to be on account of intentional mud-slinging.

6.1. When this Court explained how this problem should have been handled, the learned counsel for the petitioner would submit that the petitioner would withdraw the complaint and would try to solve his problem by resorting to negotiations. Considering that, that would be sufficient to solve the problem, the petitioner was directed to file an affidavit regarding that.

6.2. The petitioner has filed an affidavit and para -4 is important, which is extracted hereunder for reference:

> "4. ... with a view to continue the peaceful atmosphere and smooth administration in the working place and in order to avoid confrontation, the petitioner is withdrawing the complaint dated 27.08.2018 and all complaints made against the 2nd respondent."

7. The affidavit withdrawing the complaint as against the second respondent is placed on record. In that event, she need not even be a party to this litigation.

8. The effect of suspension of the petitioner, consequent upon the withdrawal of the complaint, is the critical issue to be decided. Just because, a complaint happens to be incorrect or some misapprehensions, it does not necessarily lead to the conclusion that the complaint should be looked with colored vision and the petitioner must be suspended.

9. In the light of the fact that the petitioner has chosen to withdraw the complaint itself, the order of suspension dated 23.10.2018 stands quashed. The respondents are directed to reinstate the petitioner into service and also to regularize the suspension period as duty period.

10. The writ petition is ordered in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary/Commissioner
 of Treasuries and Accounts,
 Teynampet, Chennai - 35.

2. Mrs.Chithra John Fernando,
 Additional Director of Treasuries (Admin),
 Chennai - 600 015.

3. The Joint Director of Treasuries (Admin),
 Chennai - 600 015.

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CSL/27.12.2018