

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2018

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.31467 of 2018
and W.M.P.No.36670 of 2018

R.Thavamani

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Petitioner

Vs

1.State of Tamil Nadu rep.by Chief Secretary
Fort St.George, Chennai 600 009.

2.Additional Chief Secretary / Commissioner of
Commercial Taxes, Ezhilagam, Chepauk,
Chennai 600 005.

3.Deputy Commissioner
Villupuram District Commercial Taxes Division
Villupuram.

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Respondents

For Petitioner

:Mr.Stalin Abhimanyu

For Respondent

:Mr.K.Rajendra Prasad

Additional Govt.Pleader - for R1

Mr.M.Hariharan, Addl.Govt.Pleader

-for R2 and R3

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified Mandamus calling for the records relating to the impugned order of suspension passed by the second respondent herein in his proceedings No.E1/24280/2016 dated 07.09.2016 and quash the same and consequently direct the second respondent herein to reinstate the petitioner to his service by posting him in any non sensitive post within his cadre.

O R D E R

Mr.K.Rajendra Prasad, learned Additional Government Pleader takes notice for the first respondent. Mr.M.Hariharan, Additional Government Pleader takes notice for R2 and R3.

2. The order of suspension dated 07.09.2016 is under challenge on the ground that no disciplinary proceedings have been initiated based on the FIR registered against the petitioner. Learned counsel for the petitioner relies on the judgments of the Supreme Court reported in (2015) 7 SCC 291

"Ajay Kumar Choudhary Vs Union of India" and "State of Tamil Nadu Vs Pramod Kumar" reported in 2018 SCC Online SC 1079, wherein it was held as follows,

"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."

3. Considering the facts and circumstances of the case and in the light of the facts that no final report has been filed even after the expiry of two years and that no disciplinary proceedings is pending against the petitioner, the respondents are directed to revoke the order of suspension and put him in any non sensitive post as per his cadre, within a period of four weeks from the date of receipt of a copy of this order. With the above directions, the writ petition is disposed of. No costs. Consequently, connected W.M.P. is closed.

s/d-
Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

kst

To

1. The Chief Secretary
State of Tamil Nadu
Fort St. George, Chennai 600 009.

2. Additional Chief Secretary / Commissioner of
Commercial Taxes, Ezhilagam, Chempauk,
Chennai 600 005.

3. Deputy Commissioner
Villupuram District Commercial Taxes Division
Villupuram.

+1 CC to Mr. Stalin Abimanyu, Advocate sr 82090

W.P.No.31467 of 2018

SS (CO)

SP (03/12/2018)