

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2018

CORAM:

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.31770 of 2018
and
W.M.P.Nos.36992 and 36995 of 2018

Dr.P.Radha

... Petitioner

Vs.

1. State of Tamil Nadu,
Rep. by its Secretary,
Animal Husbandry, Diary and
Fisheries Department (AH7),
Fort St. George,
Chennai - 600 009.
2. The Director of Animal Husbandry
and Veterinary Services,
Veterinary Poly Clinic Campus,
571, Anna Salai, Nandanam,
Chennai - 600 035.
3. The Regional Joint Director,
Animal Husbandry Department,
Rameswaram,
Ramanathapuram District.
4. The Assistant Director,
Animal Husbandry Department,
Rameswaram,
Ramanathapuram District.

... Respondents

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 of the first respondent in relation to the impugned letter No.19417/AH1/2015-21, dated 15.06.2017, quash the same and consequently, direct the respondents to reinstate the petitioner in any non-sensitive post as per the Judgment of the Hon'ble Supreme Court in the case of Ajay Kumar Choudhary and Pramod Kumar and followed by the Division Bench of this Court in W.A.No.613 of 2017 and further direct the respondents to pay the petitioner the arrears of subsistence allowance from the month of February 2014 at the rate of 75%.

For Petitioner : Mrs.Dakshayani Reddy
for M/s.P.Nethaji

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

ORDER

The petitioner, who was working as Veterinary Assistant Surgeon, Veterinary Dispensary, Rameswaram, was placed under suspension by the second respondent, by an order dated 09.07.2013.

1.1. It is the claim of the petitioner that she is under prolonged suspension without any progress in the criminal case.

2. The learned Special Government Pleader submitted that charge sheet has been filed in C.C.No.5 of 2014 and therefore, there is no necessity to revoke the order of suspension.

3. It appears that even though charge sheet has been filed in the year 2014 and the case is stated to have been posted today for appearance of L.W.1. Therefore, it is not known, when the trial will be over. Under such circumstances, the prolonged suspension is unsustainable.

4. Moreover, 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 extended 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."

5. In view of the above facts and circumstances of the case, following the principles laid down in the aforesaid landmark judgment of the Supreme Court, the order of suspension dated 15.06.2017 passed by the second respondent is directed to be revoked and the respondents are directed to reinstate the

petitioner in service and post her in any non sensitive post, within a period of eight weeks from the date of receipt of a copy of this order. The arrears of subsistence allowance shall also be paid within eight weeks.

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

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

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To

1. The Secretary,
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Fisheries Department (AH7),
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Chennai - 600 009.
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4. The Assistant Director,
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Ramanathapuram District.

+1 CC to Mr.P. Nethaji, Advocate sr 84507.
+1 CC to The Govt. Pleader sr 85463.

W.P.No.31770 of 2018

SP(18/12/2018)