



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.07.2018

CORAM:

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.12139 of 2018

and

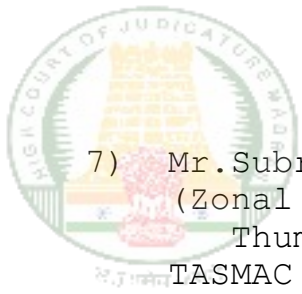
W.M.P (MD) No.11055 of 2018

Tmt.V.Suganthi
Village Administrative Officer
(under suspension),
Kamachippatti,
Musiri Taluk,
Trichy District.

... Petitioner

Vs

- 1) The Government of Tamil Nadu,
Rep.by its Principal Secretary to Government,
Revenue Department,
Fort.St.George
Chennai-600 009.
- 2) The Commissioner of Revenue Administration,
Chepauk, Chennai 600 005
- 3) The District Collector,
Trichy District, Trichy.
- 4) The Revenue Divisional Officer,
Trichy Revenue Division,
Trichy.
- 5) The Tahsildar,
Musiri Taluk,
Musiri,
Trichy District.
- 6) Mr.Manikandan,
(Formerly Tahsildar, Musiri Taluk),
Tahsildar,
Trichy West Taluk,
Trichy District.



- 7) Mr.Subramani,
(Zonal Deputy Tahsildar i/c,
Thumbalam Zone, Musiri Taluk),
TASMAC Tahsildar,
Thuvakudi,
Trichy District.
- 8) Mr.Karthick,
Revenue Inspector(Thumbalam Firka),
Musiri Taluk,
Musiri, Trichy.
- 9) Mr.Suresh Kumar,
Assistant Agricultural Officer(Thumbalam firka),
Office of the Assistant Director of
Agriculture,
Musiri, Trichy District.
- 10) Mr.Rajesh,
Assistant Horticultural Officer(Thumbalam Firka),
Office of the Assistant Director of Agriculture,
Musiri, Trichy District.
- 11) Mr.Veerappan,
Head Quarters Deputy Tahsildar,
Musiri Taluk,
Musiri, Trichy District.
- 12) Mr. Muthu,
Revenue Inspector,
Musiri Firka, Musiri,
Trichy District.
- 13) Mr.K.Kalaiselvan,
Assistant Agricultural Officer(Musiri Firka),
Office of the Assistant Director of Agriculture,
Musiri, Trichy District.
- 14) Mr. Baburaj,
Assistant Horticultural Officer(Musiri Firka),
Office of the Assistant Director of Agriculture,
Musiri, Trichy District.
- ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, call for the records relating to the 3rd Suspension Extension Order No. Na.Ka.A5/2220/2017 dated 26/04/2018 passed by the 4th respondent extending the initial suspension ordered in proceedings ROC.No.2220/2017/A5 dated 25/04/2017 and quash the same and consequently reinstate the petitioner forthwith and grant all the service and monetary benefits for the entire suspension period from



28/04/2017 to the date of reinstatement within a time limit to be fixed by this Court.

For Petitioner : Mr.T.Sakthikumaran
For Respondents : Mr.D.Murugananadham,
Additional Government Pleader.

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O R D E R

The prayer sought for in the Writ Petition is for a Writ of Certiorarified Mandamus, calling for the records relating to the 3rd Suspension Extension Order Na.Ka.A5/2220/2017 dated 26/04/2018 passed by the 4th respondent extending the initial suspension ordered in proceedings ROC.No.2220/2017/A5 dated 25/04/2017 and quash the same and consequently, reinstate the petitioner forthwith, and grant all the service and monetary benefits for the entire suspension period from 28/04/2017 to the date of reinstatement.

2. Heard Mr.T.Sakthikumaran, learned counsel appearing for the petitioner and Mr.D.Murugananadham, learned Additional Government Pleader appearing for the official respondents RR 1 to 5. Since no adverse orders are going to be passed against the official respondents, who have been shown in the individual capacity as private respondents (i.e.,) RR 6 to 14, notice to those respondents is dispensed with.

3. The short facts, which are required to be noticed for the final disposal of this Writ Petition, are as follows:-

The petitioner was appointed as Village Administrative Officer on 21.06.2010. In the year 2013, the petitioner was transferred to Kamachipatti village in Thumbalam Firka, Musiri Taluk as Village Administrative Officer. When she was working there, the petitioner was placed under suspension on contemplation of disciplinary proceedings against her on 28.04.2017. Thereafter, a charge memo was issued on 25.07.2017 by the fourth respondent and was placed under suspension on 28.04.2017. The said suspension order dated 28.04.2017 was extended by further orders dated 31.10.2017 and the same has been further extended by order dated 27.01.2018. Thereafter, the impugned order/suspension order was further more extended for the third time, dated 26.04.2018. Therefore, challenging the said extension of suspension for the 3rd time in a row, the petitioner has filed this writ petition.

4. Mr.T.Sakthikumaran, learned counsel appearing for the petitioner would submit that, though the petitioner was suspended on 28.04.2017, more than a year, the petitioner has been placed under suspension and even after a year, once again through the present impugned order, the suspension of the petitioner was further extended, where, the respondents have stated the reason that, out of the alleged loss made to the Government because of the alleged misconduct on the part of the petitioner only a part of the amount



has been remitted back in the Government Account and the remaining amount has not been remitted and moreover, if the petitioner is reinstated in service, by revoking the suspension, she may tamper the records, which may hamper the disciplinary proceedings, which have been already initiated against the petitioner and also, the petitioner has not chosen to reply to the charge memo and for all these reasons, the requirement of extension of the suspension was necessitated and accordingly, the impugned order of extension of suspension was passed.

5. These reasons cited in the impugned order has been vehemently opposed by the learned counsel appearing for the petitioner, by stating that, the petitioner is no way responsible for the loss caused to the Exchequer of the Government and no misappropriation done by the petitioner and merely because, some beneficiaries have remitted the money to the Government Account, which was paid to them for 'Drought Relief' cannot be attributed that, because of the petitioner's remedial action, the same was returned to the Government Exchequer.

6. The learned counsel appearing for the petitioner would also submit that, all the records are available with the respondents to conduct the enquiry and when that being so, the question of tampering the records on the side of the petitioner does not arise. The learned counsel for the petitioner would also submit that, in respect of the fact that the petitioner has not given a reply to the charge memo, in fact, the petitioner, on 10.11.2017, requested the respondents to give copy of certain documents, which have been relied upon by the Department side in the disciplinary proceedings, which is going to be conducted against the petitioner, as without those documents, since the petitioner cannot give a full fledged reply, those documents were necessary. However, since the said documents have not so far been given to the petitioner, the petitioner cannot be blamed for not giving a reply to the charge memo. Therefore, the learned counsel appearing for the petitioner would submit that, for all these reasons the impugned order of suspension, has to be quashed and the petitioner should be directed to be reinstated forthwith.

7. I have heard Mr.D.Muruganandham, learned Additional Government Pleader appearing for the official respondents, who would submit that, the charges framed against the petitioner were very serious, as the petitioner, as a Village Administrative Officer, had recommended a number of persons as beneficiaries / agriculturalists under the 'Drought Relief' scheme, whereby, huge sum of money has been unlawfully given to various persons as beneficiaries and those money deposited in the account of the beneficiaries had been either withdrawn or re-transferred to the account of the petitioner or her family members. In view of the serious charge, the Department is very eager to complete the disciplinary proceedings and since the petitioner has not replied to the charge memo, the Department is not able to proceed with the enquiry, by appointing an Enquiry Officer.



8. Learned Additional Government Pleader appearing for the respondents further submitted that, because of these reasons, the extension of suspension was necessitated and whenever charge memo has been filed and suspension of the employee was necessitated for further period on recording reasons, the same can be extended. This view has been approved by the Hon'ble Apex Court in the matter of **Ajay Kumar Choudhary - vs- Union of India** reported in **(2015) 7 SCC 291** and therefore, the said extension order, which is impugned herein, cannot be treated as unjustifiable or unsustainable one and accordingly, the Writ Petition is liable to be dismissed.

9. I have considered the said submissions made by both sides. I have gone through the materials placed before this Court, especially, the copy of the charge memo served on the petitioner. As has been rightly pointed out by the learned Additional Government Pleader appearing for the respondents, certain serious charges have been made against the petitioner. However, this Court does not want to express any opinion on such charges levelled against the petitioner, as the petitioner is to be enquired by the Department through the disciplinary proceedings, which has already been initiated against the petitioner.

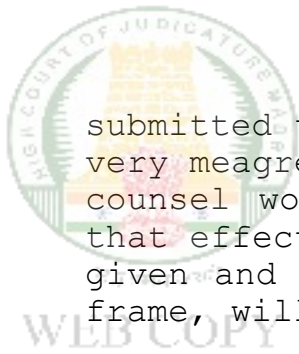
10. Insofar as the impugned order of extension of suspension is concerned, some reasons have been recorded by the respondents for extending the suspension. The disciplinary proceedings is yet to be over, is one of the reason and the reason for the delay of disciplinary proceedings, as such given by the respondents is that, the petitioner has not so far responded to the charge memo by giving her reply, in spite of the same having been served long back.

11. In response to the same, the learned counsel appearing for the petitioner would draw the attention of this Court that, by letter dated 10.11.2017, the petitioner sought for the documents, which are going to be relied upon by the Department side and those documents are yet to be served on the petitioner.

12. At this juncture, the learned Additional Government Pleader appearing for the respondents, during last hearing, sought for some short accommodation to get instructions, as to whether, those documents have already been served on the petitioner and if not, when can those documents be served on the petitioner. Today, when the case was taken up for hearing, the learned Additional Government Pleader appearing for the respondents has brought a copy of those documents relied upon by the Department in the disciplinary proceedings against the petitioner. The said documents have, in fact, been served on the petitioner's side and the same has been acknowledged by the learned counsel appearing for the petitioner. So, what are all the documents sought for by the petitioner by request dated 10.11.2017, have now been served on the petitioner.

<https://hcservices.ecourts.gov.in/hcservices/>

13. However, the learned counsel appearing for the petitioner



submitted that, still more documents are yet to be served, which are very meagre in number and whatever those documents, the petitioner's counsel would submit that, the petitioner would make a request to that effect forthwith, to the respondents and if those documents are given and after receipt of the same, the petitioner, within a time frame, will give a detailed reply to the charge memo.

14. Taking note of the developments and in view of the aforesaid facts and circumstances, to give a quietus to the issue raised in this Writ Petition, this Court is inclined to pass the following orders:

(i) the impugned order of extension of suspension has been made, by giving reasons and therefore, this Court feels that, the said order cannot be considered as unjustifiable or unlawful. Hence, it does not require any interference at this juncture;

(ii) Since some serious allegations have been made against the petitioner in the charge memo, the same has to be enquired into; for the said purpose, if the documents sought for by the petitioner have already been given to the petitioner and some more documents have to be asked for by the petitioner in this regard, the petitioner shall make such request to the respondents, to seek further documents within a period of seven days from the date of receipt of a copy of this order;

(iii) On receipt of such request, those documents also shall be furnished to the petitioner, within a period of two weeks thereafter by the respondents;

(iv) After receipt of those documents, the petitioner shall give a reply to the respondents within a period of two weeks; and

(v) On receipt of the reply from the petitioner, it is open to the respondents to take a decision, as to whether the petitioner shall be proceeded against, pursuant to the charge memo and if so, the respondents shall complete the disciplinary proceedings by conducting an enquiry and final orders to be passed within a period of three months thereafter.

15. With these directions, this Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, connected W.M.P(MD) No.11055 of 2018 is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/



To

- 1) The Principal Secretary to Government,
Government of Tamil Nadu,
Revenue Department,
Fort.St.George
Chennai-600 009.
- 2) The Commissioner of Revenue Administration,
Chepauk,
Chennai 600 005
- 3) The District Collector,
Trichy District,
Trichy.
- 4) The Revenue Divisional Officer,
Trichy Revenue Division,
Trichy.
- 5) The Tahsildar,
Musiri Taluk,
Musiri, Trichy District.

+ 1 CC TO Mr.A.THIRUMURTHY, ADVOCATE IN SR No. 73481
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 73542

STS

TE/BK/SAR-1 : 12/12/2018 : 7P/8C

Order made in
W.P. (MD) No.12139 of 2018
17.07.2018