



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.07.2018

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WEB COPY

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.14926 of 2018

and

W.M.P.[MD]Nos.13472 & 13473 of 2018

A.C.Subbulakshmi : Petitioner

Vs.

1.The District Elementary Educational Officer,
Virudhunagar.

2.The Assistant Elementary Educational Officer,
Kariyapatti,
Virudhunagar District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned suspension order issued by the first respondent in his proceedings in RC. No.1107/B3/2018 dated 05.04.2018 and quash the same and consequently direct the respondents to reinstate the petitioner by regularising the suspension period with all attendant and monetary benefits.

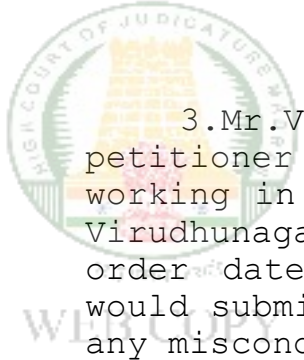
For Petitioner : Mr.Veera Kathiravan
Senior Counsel
for C.Jeganathan

For Respondents : Mrs.S.Srimathy,
Special Government Pleader

O R D E R

The prayer sought for in this Writ Petition is for a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned suspension order issued by the first respondent in his proceedings in RC. No.1107/B3/2018 dated 05.04.2018 and to quash the same and consequently to direct the respondents to reinstate the petitioner by regularising the suspension period with all attendant and monetary benefits.

2.Heard Mr.Veera Kathiravan, learned Senior Counsel for Mr.C.Jeganathan appearing for the petitioner and Mrs.S.Srimathy, learned Special Government Pleader appearing for the respondents.



3.Mr.Veera Kathiravan, learned Senior Counsel appearing for the petitioner would submit that, the petitioner is a Teacher and was working in a Panchayat Union / Elementary School at T. Chettikulam, Virudhunagar. She has been placed under suspension by the impugned order dated 05.04.2018. In this regard, learned Senior Counsel would submit that, absolutely, the petitioner has nothing to do with any misconduct as alleged by the respondents in the impugned order.

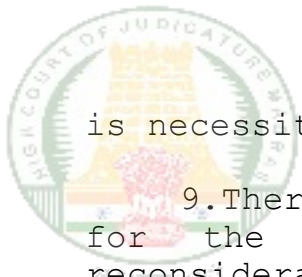
4.In this regard, the learned Senior Counsel appearing for the petitioner would submit that, because of some money transactions between the petitioner's husband and the third party, unnecessarily the petitioner had been implicated in the case and she had been arrested and remanded to judicial custody for more than 48 hours. Under the deeming position, namely, Rule 17 of the Tamil Nadu Civil Service (Discipline and Appeal) rules, the respondents have placed the petitioner under suspension, through the impugned order.

5.In this regard, learned Senior Counsel would submit that, such a suspension insofar as the petitioner is concerned, is absolutely unwarranted, as the petitioner has not involved in any misconduct related to his official duty. If at all any criminal case is filed against the petitioner's husband by third parties, wherein the petitioner is unnecessarily implicated, that cannot be connected with the official duty of the petitioner and therefore, the respondents ought not to have invoked the provision of the Rules, namely, Tamil Nadu Civil Services (Discipline and Appeal) Rules and place the petitioner under suspension.

6.In this regard, learned Senior Counsel would further submit that, at any rate, since the suspension order dated 05.04.2018 was with effect from 27.03.2018 and more than three months the petitioner is under suspension, the said suspension order has to be reviewed at the end of three months, as no charge memo has been filed against the petitioner. In this regard, learned Senior Counsel would rely upon the law declared in Ajay Kumar Choudhary v. Union of India and another, reported in 2015 (7) SCC 291.

7.The Learned Senior Counsel would further submit that, in this regard, the petitioner has given a representation on 22.06.2018, to review the said suspension order and if the said representation of the petitioner is directed to be considered by the respondents, objectively within a time frame, the petitioner would confine his prayer only to a Writ of Mandamus, to consider the said representation.

8.I have heard the learned Special Government Pleader appearing for the respondents, who would submit that, apart from the reasons given by the learned Counsel for the petitioner, since the impugned order of suspension was issued on 05.04.2018, with effect from 27..03.2018 and for more than three months the petitioner has already been under suspension, it is for the respondents to review the said suspension, as to whether further extension of suspension



is necessitated in the circumstances of the case.

9. Therefore, the learned Special Government Pleader appearing for the respondents would submit that, while making the reconsideration, the request of the petitioner dated 22.06.2018, given by way of a representation would also be taken into account and the same shall be considered on merits and a decision would be taken thereon, within a time frame by the authorities concerned.

10. I have considered the said submissions made by the learned Senior Counsel appearing for the petitioner as well as the learned Special Government Pleader appearing for the respondents.

11. Since, the learned Senior Counsel appearing for the petitioner submits that the reasons cited in the impugned suspension order is no way related to the discharging of the official duty of the petitioner and at any rate, the petitioner has been under suspension for more than three months, as per the dictum laid down by the Hon'ble Apex Court in Ajay Kumar Choudhary's case reported in 2015 (7) SCC 291 [cited supra], it is for the respondents to review the said suspension at the end of three months period and since the three months period is over, the respondents shall give reasons why such extension is required. If no reasons are given, the respondents can revoke the suspension and the petitioner can be reinstated.

12. In the result, the following orders are passed in this writ petition:

12.1. The respondents, especially the first respondent, shall consider the representation of the petitioner dated 22.06.2018 in the light of the decision of the Hon'ble Supreme Court in Ajay Kumar Choudhary's case reported in 2015 (7) SCC 291 and decide as to whether the further extension of suspension of the petitioner is necessitated for valid reasons and if so, record the reasons. Otherwise, the respondents shall revoke the suspension which is impugned herein dated 05.04.2018 and pass an order of reinstatement of the petitioner forthwith.

12.2. The aforesaid exercise shall be undertaken by the respondents within three weeks from the date of receipt of a copy of this order.

13. With the above directions, this writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

/True copy/



To

1.The District Elementary Educational Officer,
Virudhunagar.

2.The Assistant Elementary Educational Officer,
Kariyapatti,
Virudhunagar District.

+1cc to C.Jeganathan, Advocate, SR.No.72504.

+1cc to Special Government Pleader, SR.No.72521.

ORDER MADE IN
W.P. (MD) No.14926 of 2018
11.07.2018

mr

RAM/RP/SAR 2/16.07.2018/4P/5C