

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE Ms.JUSTICE P.T.ASHA

W.A.No.1508 of 2019

The Principal Secretary,
Transport Commissioner,
Chepauk, Chennai 5

now Transport Commissioner, Chepauk, Chennai 5

... Appellants /Respondent

Vs

K.Prabhu

... Respondent/Petitioner

Appeal filed against the order passed by this Court dated 7.12.2018 in WP No.23814 of 2018.

W.P.No.23814 of 2018:

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 on the file of the Respondent in his proceedings Proc. R. No.42353/ VB1/ 2017 dated 30.10.2017 and Proc. R. No.42353/ VB1/ 2017 dated 30.08.2018 and to quash the same and to issue consequentially direct the Respondent herein to forthwith reinstate the petitioner.

For appellant : Ms.A.Srijeyanthi, Spl.G.P.
For Respondent : Mr.M.Ravi

J U D G M E N T

The learned Single Judge quashed the order of suspension and directed the appellants to reinstate the respondent into service. Feeling aggrieved, the State has come up with this appeal.

2. We have heard the Special Government Pleader for the appellants. We have also heard the learned counsel for the respondent.

3. The respondent was placed under suspension by order dated 30 October 2017 on account of his involvement in a criminal case registered by the Vigilance and Anti Corruption, Pudukottai under the provisions of the Prevention of Corruption Act, 1988.

4. The respondent moved the writ court in W.P.No.23814/2018 challenging the charge memo. The learned Single Judge without giving an opportunity to the appellants to review the order of suspension, issued a positive order setting aside the suspension with a direction to the appellants to post the respondent in any if the non sensitive posts.

5. There is no dispute that the respondent has been placed under suspension from 30 October 2017. The representation submitted by the respondent to revoke the suspension was rejected by order dated 30 August 2018. It was the said order which was challenged before the writ court.

6. The learned Single Judge without even giving an opportunity to the Government to file a counter affidavit, allowed the Writ Petition.

7. The Transport Commissioner, while rejecting the request for revoking the suspension, had given certain reasons. The learned Single Judge was expected to consider those reasons before quashing the impugned order. The order passed by the learned single Judge does not contain any indication that the merits of the matter was taken note of.

8. When it was pointed to the learned counsel for the respondent as to how the order could be quashed without adjudication on merits, it was submitted that the respondent would be satisfied in case a direction is given to review the suspension.

9. We set aside the order dated 7 December 2018. The Writ Petition is disposed of with a direction to the appellant to review the order of suspension dated 30 October 2017, taking into account the subsequent events. The appellant must also take note of the stage of criminal case. In any case, such exercise on merits shall be completed within a period of two months from the date of receipt of a copy of this judgment.

10. The intra court appeal is allowed to the extent indicated above. No costs.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

tar

To

The Principal Secretary,
Transport Commissioner,
Chepauk, Chennai 5
now Transport Commissioner,Chepauk, Chennai 5

+1 CC to Mr.M.Ravi, Advocate sr 56102.
+1 CC to Govt. Pleader sr 56505

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VBA(CO)
SP(19/07/2019)



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