

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN
and
THE HONOURABLE MR. JUSTICE P.D. AUDIKESAVALU

W.A. No. 773 of 2019
and
C.M.P. No. 6088 of 2019

S. Samraj Appellant/Petitioner

-vs-

1. The District Collector,
Krishnagiri,
Krishnagiri District.
2. The Inspector of Police,
Vigilance & Anti-Corruption Department,
Dharmapuri - i/c,
Krishnagiri,
Krishnagiri District. Respondents/Respondents

PRAYER:- Writ Appeal filed under Clause 15 of Letter Patent, praying to set aside the order dated 06.02.2019 made in W.P. No. 3232 of 2019.

Prayer in W.P. No. 3232 of 2019:

Writ Petition under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus to call for the records relevant to the order dated 26.12.2018 in na.Ka. 14159/ 2018/ A1 passed by the 1st respondent herein and quash the same as illegal, improper, incompetent, arbitrary and ultra virus and consequently direct the 1st respondent to reinstate the petitioner into his service with effect from 08.06.2018 with all back wages .

For Appellant :Mr. R. Singaravelan, Senior Counsel

For Respondents:Mrs. A. Sri Jayanthi,
Special Government Pleader

J U D G M E N T

(Judgment of the Court was delivered by P.D. AUDIKESAVALU, J.)

The intra-Court Appeal arises out of the order dated 06.02.2019 in W.P. No. 3232 of 2019 passed by the Learned Judge of this Court.

2. The Appellant was working as Head Quarters Deputy Tahsildar at Uthangarai Taluk in Krishnagiri District. The Appellant was detained on a criminal case lodged against him and he was suspended by proceedings dated 08.06.2018 by the District Collector, Krishnagiri. The Appellant challenged the said order of suspension in W.P. No. 26236 of 2018 in this Court, which came to be disposed by order dated 30.10.2018 as follows:-

"8. The aforesaid law laid down by the Supreme Court is binding on all the authorities in India be executive or judicial. Therefore, considering the same this Court is of the view that the contention advanced resisting the claim of the petitioner since no charge sheet has been filed against him in this case, even if more than three months have lapsed, the petitioner appears to have made out a case in his favour and hence, this Court dispose of this writ petition with a direction to the petitioner to file a representation for revocation of suspension, within two weeks of receipt of copy of this order along with a copy of this order to revoke his order of suspension to the respondent concerned. The respondent concerned i.e. the first respondent on receipt of the same shall take an informed and considered decision in accordance with law within a period of four weeks from the date of receipt of copy of this order in the light of law laid down in the case of Ajay Kumar Choudary in exercise of the power under rule 17(e) (6) of the rules without being influenced by any circular or executive instruction not to exercise such power of revocation in respect of persons involved in Anti corruption / vigilance case, inasmuch as such instruction cannot circumscribe the exercise of such statutory power of the Authority under Rule 17 (e) (6).

9. With the aforesaid order, this writ petition stands disposed of. Consequently connected miscellaneous petition is closed. No costs. "

In pursuance thereof, the Appellant made a representation dated 26.11.2018 and the same was rejected by order dated 26.12.2018 citing that the Appellant was habitually indulged in illegal activities of receiving bribe for issuing legal heir certificate, widow certificate and securing employment on compassionate grounds, etc., on earlier occasions for which penalties had been imposed upon him and in such circumstances, if he was now reinstated in service, it would affect the

credibility of the administration and shake the confidence of the public. The Appellant challenged the said order in W.P. No. 3232 of 2019 before this Court, which was disposed by order dated 06.02.2019. The Learned Judge, in para no. 5 of the said order has held as follows:-

"5. The present writ petition is filed against the order of rejection dated 26.12.2018. The petitioner was initially suspended on 08.06.2018. The first writ petition was filed in W.P.No.26236 of 2018. Thus, no other writ petition can be entertained in respect of the order of suspension, as the charge sheet is going to be filed soon by the Vigilance and Anti Corruption Department and the writ petitioner has to establish his innocence by participating in the criminal trial and only thereafter his case is to be considered. In the event of long delay of more than four years in concluding the criminal trial, then the writ petitioner is at liberty to approach the competent authorities for the purpose of redressing his grievance. Accordingly, the writ petition is devoid of merits and stands dismissed. No costs."

We are in agreement with the aforesaid reasons assigned by the Learned Judge in rejecting the claim of the Appellant.

3. We have heard Mr. R. Singaravelan, Learned Senior Counsel appearing for the Appellant, Mrs. A. Sri Jayanthi, Learned Special Government Pleader appearing on behalf of the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

4. The Learned Senior Counsel appearing for the Appellant submits that the Appellant was not the competent authority for issuance of the certificates for which he is said to have been inflicted with penalties on earlier occasions and as such, the order requires to be set aside on that ground for the matter to be re-considered on that aspect.

5. We are unable to accept the said submission for the reason that it is not in dispute that the Appellant had suffered penalties on earlier occasions also and the refusal of the First Respondent for reinstatement in service apprehending recurrence of such mis-conduct would not be conducive for smooth administration, is well founded. At the same time, it is made clear that if the continuance of the suspension of the Appellant falls for further review, it shall be open to the Appellant at that stage to provide factual details regarding the correctness of the earlier charges made against him in the impugned order of rejection of revocation of suspension dated 26.12.2018.

6. Accordingly, we confirm the order of the Writ Court and dispose the Writ Appeal on the aforesaid terms. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS)

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Sub Assistant Registrar

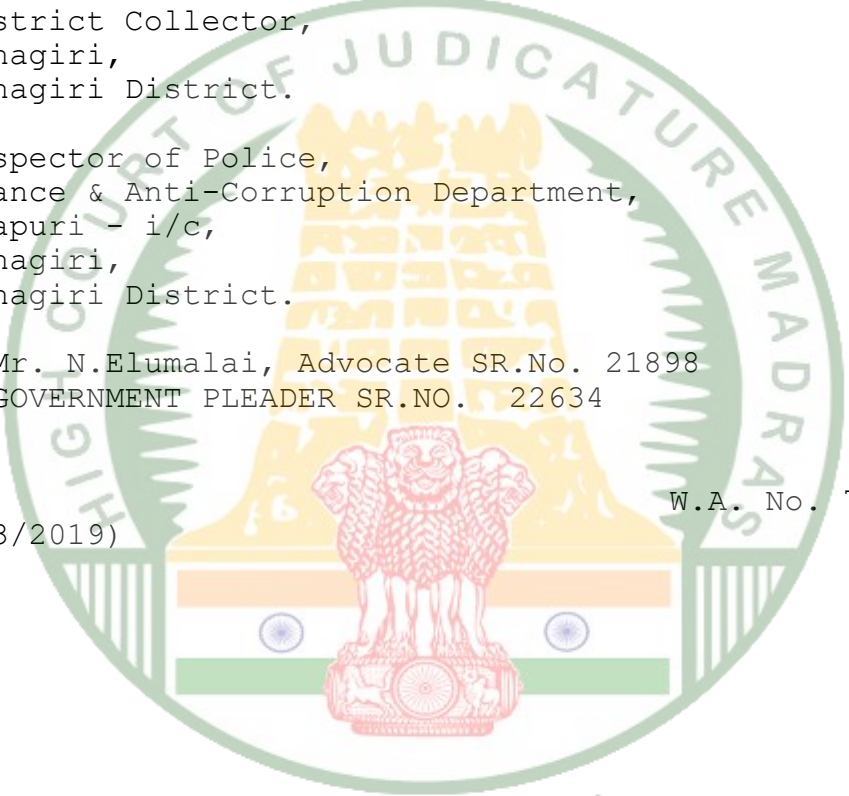
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To

1. The District Collector,
Krishnagiri,
Krishnagiri District.
2. The Inspector of Police,
Vigilance & Anti-Corruption Department,
Dharmapuri - i/c,
Krishnagiri,
Krishnagiri District.

+2ccs to Mr. N.Elumalai, Advocate SR.No. 21898
+1 CC TO GOVERNMENT PLEADER SR.NO. 22634

A.SK(21/03/2019)

W.A. No. 773 of 2019



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