

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2019

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.23766 of 2018
W.M.P.No.27222 of 2018

S.Saravanakumar

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Petitioner

Vs

The Collector
Udhagamandalam
The Nilgiris District.

....

Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the respondent vide Rc.No.A2/7006/2016 dated 29.3.2016 and quash the same and consequently direct the respondent to revoke the order of suspension dated 29.03.2016 and reinstate the petitioner in service.

For Petitioners :M/s.S.Vijayakumar
For Respondents :Mr.A.N.Thambidurai,
Special Govt.Pleader

O R D E R

The petitioner was working as Deputy Tahsildar. He was named as an accused in F.I.R.No.2 of 2016 in connection with a Vigilance and Anti Corruption Case. Based on the said criminal charges, the petitioner was placed under suspension by an order dated 29.03.2016. The petitioner submitted a representation dated 03.07.2017 to the respondent to revoke the order of suspension, which was rejected by the respondent by a proceedings dated 19.08.2017. It is the case of the petitioner that the prosecution has already laid the charge sheet and till now not even one witness has been examined. The petitioner submitted another representation dated 12.03.2018, requesting subsistence allowance, which was also not considered. Hence, aggrieved by the same, the petitioner has filed the present writ petition seeking appropriate relief.

2. Learned counsel for the petitioner relies on the judgment of the Supreme Court dated 21.08.2018 in Civil Appeal No.8427 to 8428 of 2018 (State of Tamil Nadu Vs. Promod Kumar IPS and Another), wherein the Supreme Court has referred to the landmark judgment in Ajay Kumar Choudhary Vs. Union of India (2015) 7 S.C.C.291, and has held as follows,

"This Court in Ajay Kumar Choudhary Vs Union of India, (2015) 7 S.C.C.291, has frowned upon the practice of protracted suspension and held that suspension must necessarily be for a short duration. On the basis of the material on record, we are convinced that no useful purpose would be served by continuing the first respondent under suspension any longer and that his reinstatement would not be threat to a fair trial. We reiterate the observation of the High Court that the Appellate State has the liberty to appoint the first respondent in a non sensitive post."

5. Under the circumstances, following the principles laid down in the aforesaid judgment of the Supreme Court dated 21.08.2018 in Civil Appeal No.8427 to 8428 of 2018 (State of Tamil Nadu Vs. Promod Kumar IPS and Another), and Ajay Kumar Choudhary Vs. Union of India (2015) 7 S.C.C.291, the order of suspension dated 29.03.2016 is directed to be revoked and the respondent is directed to reinstate the petitioner in service and post him in any non sensitive post, within a period of eight weeks from the date of receipt of a copy of this order. With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Deputy Registrar

True Copy

Sub-Assistant Registrar

kst
To

The Collector
Udhagamandalam
The Nilgiris District.

+1 CC to Mr.S. Vijaya Kumar, advocate sr 1294
+1 CC to Govt. Pleader sr 1905

W.P.No.23766 of 2018

SP(04/02/2019)