

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :13.06.2019

CORAM

THE HONOURABLE Mr. JUSTICE V.PARTHIBAN

W.P.No.16391 of 2019 and
W.M.P.No.16067 of 2019

R.Vivekanandan

... Petitioner

Vs.

1.The Deputy Inspector General of Police,
Coimbatore Range, Coimbatore - 18.

2.The Superintendent of Police,
District Police Office,
Erode District @ Erode.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the order of the first respondent herein passed in his C.No.D1/5212/2017, R.O.100/2017 dated 19.05.2017 and the consequential order of the second respondent herein in his D.O.No.335/2017, Rc.No.J1/17638/2017 dated 19.05.2017 placing the petitioner under suspension and quash the same and consequently direct the respondents herein to revoke the suspension order of the petitioner.

For Petitioner : Mr.Ravi Shanmugam

For Respondents : Mr.I.Sathish
Additional Government Pleader

ORDER

The petitioner was appointed as Sub Inspector of Police in 1997 and thereafter promoted as Inspector of Police in 2009. The writ petitioner was placed under suspension on 19.05.2017 on the ground that a criminal case was pending against him. The order of suspension was passed invoking Rule 3(e)(1)(ii) of the Tamil Nadu Police Subordinate Service (D&A) Rules, 1955 with retrospective effect from the date of his arrest. In pursuance of the criminal case registered against him, the petitioner was

originally remanded to the judicial custody till 01.06.2017 and thereafter was enlarged on bail. Therefore, the suspension was passed on the ground of "deemed suspension".

2. After the petitioner was placed under suspension i.e. on 19.05.2017, there has been no review at all till date by the respondents. No charge sheet has been filed in the criminal Court nor any departmental proceedings was initiated. Therefore, the petitioner is before this Court seeking to challenge the order of suspension which has been in force for more than two years.

3. The learned counsel appearing for the petitioner would submit that the prolonged suspension of this nature cannot be sustained in law, in view of the categorical pronouncement of the Hon'ble Supreme Court of India in the decision reported in 2015 (7) SCC 291 (Ajay Kumar Choudhary V. Union of India). In the said case, the Hon'ble Supreme Court of India has held that 'normally the currency of a suspension order should not extend beyond three months particularly when no charge sheet is served on the delinquent and even if charge sheet is filed, a reasoned order must be passed for the extension of suspension'. In the present case, neither any charge sheet was filed nor any review has been done by the respondents. In the said circumstances, the petitioner is entitled to have the suspension quashed.

4. When the matter is taken up for admission, Mr. I. Sathish, learned Additional Government Pleader has taken notice on behalf of the respondents.

5. The above averments as narrated are not in dispute. Since the order proposed to be passed as under, does not require any detailed instructions or counter affidavit from the respondents, the Writ Petition is disposed of, at the admission stage itself, with the following directions:

(i) The respondents are directed to review the order of suspension passed against the petitioner dated 19.05.2017 by taking into consideration the law laid down by the Hon'ble Supreme Court of India in Ajay Kumar Choudhary V. Union of India reported in 2015 (7) SCC 291 in regard to prolonged suspension.

(ii) The respondents are also directed to take note of the decisions of this Court following the Ajay Kumar Choudhary's case referred in W.P.No.1398 of 2015 dated 21.10.2016 and also the Judgment in W.A.No.613 of 2017 dated 15.06.2017 and pass an order within a period of four weeks from the date of receipt of a copy of this order.

(iii) The petitioner is also directed to make available the copies of the judgments referred to

above to the Competent Authority to enable the authorities to appreciate the claim of the petitioner in terms of the law laid down by this Court as well as the Hon'ble Apex Court on the issue on hand.

(iv) The Competent Authority shall also provide an opportunity to the petitioner before passing a reasoned order as directed above.

No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Deputy Inspector General of Police,
Coimbatore Range, Coimbatore - 18.
- 2.The Superintendent of Police,
District Police Office,
Erode District @ Erode.
- 3.The Government Advocate,
High Court, Madras.

+1cc to Mr.Ravi Shanmugam, Advocate Sr.48337

सत्यमेव जयते

W.P.No.16391 of 2019

mp[co]
srg 16/07/2019

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