

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED : 22.02.2019  
CORAM  
THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN  
and  
THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.A. No. 1405 of 2017

D.Elumalai ... Appellant/ Petitioner  
Vs.

- 1.The Deputy Inspector General of Police  
Vellore Range, Vellore District.
- 2.The Superintendent of Police  
Tiruvannamalai District.
- 3.The Inspector of Police  
Vigilance and Anti-Corruption Department  
Tiruvannamalai District.

... Respondents/ Respondents

Appeal filed under Clause 15 of the Letters Patent,  
to set aside the order in W.P. No. 6029 of 2017 dated  
31.07.2017 and thereby allow the Writ Appeal.

Prayer in W.P. No. 6029 of 2017:

This Petition filed under Article 226 of the  
Constitution of India praying for the issuance of Writ of  
Certiorarified Mandamus call for the records relevant to  
the order in Na.Ka.No. H.1./20253/16 dated 28.02.2017  
passed by the 2nd respondent and quash the same as  
illegal improper unreasonable arbitrary against the  
principles of natural justice and thereby direct the 1<sup>st</sup>  
respondent to reinstate the petitioner into his service  
with effect from 22.09.2016 with all back wages.

For Appellant : Mr.A.Rajesh Kanna

For Respondents : Mr.S.N.Parthsarathy

J U D G M E N T

(Judgment of the Court was delivered by K.K.SASIDHARAN,  
J.)

The appellant was suspended from service initially  
by order dated 22.09.2016 on account of his involvement  
in a criminal case registered under the provisions of  
Prevention of Corruption Act, 1988. The representation  
submitted by the appellant for revoking the suspension  
was rejected by order dated 28.02.2017. The said order  
was unsuccessfully challenged by the petitioner in W.P.  
No.6029 of 2017 before the writ court. Feeling aggrieved

by the order dated 31.07.2017, the unsuccessful writ petitioner has come up with this intra court appeal.

2.The learned counsel for the appellant by placing reliance on the judgment dated 02.02.2018 in W.A. No. 762 of 2017 submitted that under identical circumstances the case of another person involved in the very same case was given relief by this Court by issuing a direction to the authorities to review the order of suspension.

3.According to the learned counsel, the name of the appellant was not included in the case originally and it was only subsequently his name was incorporated, and as such he is in a better position.

4.We have also heard the learned Government Pleader on behalf of the respondents.

5.There is no dispute that the appellant was placed under suspension by order dated 22.09.2016. The representation submitted by the appellant for revoking his suspension was rejected by order dated 28.02.2017. We are informed that the appellant is still under suspension. The respondent therefore must review the suspension for taking a decision one way or the other.

6.In the result, the order dated 31.07.2017 is set aside. The writ petition in W.P. No. 6029 of 2017 is disposed of with a direction to the disciplinary authority to consider the case of the appellant for revocation of suspension on merits and in accordance with law and more particularly, in the light of the law laid down by the Hon'ble Supreme Court in Ajaykumar Choudry vs. Union of India (2015(1) SCALE 432).

7.We make it clear that we have not expressed any opinion on the merits of the matter. It is for the disciplinary authority to consider the issue purely on merits.

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

may

Sd/-

सत्यमेव जयते Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

To

1.The Deputy Inspector General of Police  
Vellore Range, Vellore District.

2.The Superintendent of Police  
Tiruvannamalai District.

3.The Inspector of Police  
Vigilance and Anti-Corruption Department  
Tiruvannamalai District.

+1cc to Mr.A.Rajesh Kanna , Advocate SR.No. 16556

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