

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2019

CORAM

THE HONOURABLE Mr.JUSTICE S.VAIDYANATHAN

W.P. 7835 of 2017

V.Jayaraj

... Petitioner

Vs

1. The District Collector,
Erode.

2. The District Revenue Officer,
Erode District,
Erode.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the 2nd respondent vide Rc.No.25690/2014/A4, dated 26.09.2014 and to quash the same and consequently direct the 2nd respondent to revoke the order of suspension dated 26.09.2014 and reinstate the petitioner in service.

For Petitioner : Mr.S.Vijayakumar

For Respondents : Mr.P.Sivashanmugasundaram,
Special Govt. Pleader

O R D E R

The above Writ Petition has been filed praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the 2nd respondent vide Rc.No.25690/2014/A4, dated 26.09.2014 and to quash the same and consequently direct the 2nd respondent to revoke the order of suspension dated 26.09.2014 and reinstate the petitioner in service.

2. The petitioner was placed under suspension on 26.09.2014 by the 2nd respondent on the ground that he was facing criminal prosecution and he was detained in custody on 23.09.2014. It is the case of the petitioner that he was under custody for not more than 48 hours, and as such, there is no deemed suspension in terms of Rule 17(3) clause (2) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules.

3. Admittedly, the criminal case is pending. In the counter affidavit filed by the 1st respondent, it has been stated that the petitioner is being paid 75% of the subsistence allowance and that the Vigilance department has to follow the procedures

laid down in the provisions of Prevention of Corruption Act, which would consequently bring the issue to the logical end, especially, when it is a trap case. It is further stated that the petitioner was arrested on the ground that he has demanded a sum of Rs.4500/- as bribe. The Hon'ble Supreme Court in the case of State of Tamil Nadu Vs. Promod Kumar, I.P.S. And another reported in AIR 2018 SC 4060 had categorically held that there cannot be any prolonged suspension and the suspension has got to be reviewed periodically.

4. In this case, the petitioner has been placed under suspension on 26.09.2014 and the criminal case has attained finality. In view of the Judgment of Hon'ble Apex Court mentioned supra, the respondents have to consider the revocation of suspension and to place the petitioner in a non-sensitive post, as the taxpayers money need not be wasted by paying 75% of subsistence allowance to the delinquent employee.

5. In view of the above, the Writ Petition is allowed and the learned Criminal Court is directed to expedite the matter without adjourning the matter beyond 15 days at any point of time and the respondents are expected to take a decision to reinstate the petitioner in a non-sensitive post within a period of forty five days from the date of receipt of the copy of this order in the light of the Apex Court's decision in the case of State of Tamil Nadu Vs. Promod Kumar, I.P.S. (cited supra) and also Ajay Kumar Choudhary Vs. Union of India through its Secretary and another reported in 2015 (3) CTC 119. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The District Collector,
Erode.

2. The District Revenue Officer,
Erode District, Erode.

+1 cc to M/s.S.Vijaya Kumar, Advocate Sr.No. 62670

+1 cc to The Government Pleader Sr.No.62769

AKM/06.09.19/2P-5C /

W.P. 7835 of 2017