

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 19.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No. 35144 of 2019
and

W.M.P.Nos. 35934 & 35935 of 2019

S.Gunasekaran

...Petitioner

Vs.

Government of Tamil Nadu,
Represented by Chief Secretary to Government,
Public (Special-A) Department,
Secretariat, Chennai - 600 009.Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Certiorarified Mandamus, calling for the records of the respondent relating to the order in G.O.(D) No.81, Public (Spl.A) Department, dated 08.03.2018, to quash the same and to issue consequential directions to the respondent to reinstate the petitioner in service with all consequential benefits.

For Petitioner : Mr.M.Ravi

For Respondents : Mr.P.S.Sivashanmugasundaram,
Special Government Pleader.

O R D E R

This writ petition has been filed challenging the suspension order passed by the respondent on 08.03.2018 and seeking for a consequential relief of reinstatement of the petitioner in service.

2. The case of the petitioner is that he was working as a Senior Regional Manager of TASMAL. The claim of the petitioner is that he was falsely implicated in a criminal case on the basis of the complaint given by the sales supervisor. The petitioner states that this complaint is false and it was given by a disgruntled employee against him. The petitioner had passed an order by posting him as an Additional Salesman. The further case of the petitioner is that the amount that is said to have been paid was not even recovered and the entire criminal case is foisted against the petitioner.

3. It is seen from the records that a First Information Report has been registered in Crime No.3 of 2018 against the petitioner for offences under Section 7 and 12 of the

Prevention of Corruption Act. Pursuant to the registration of the First Information Report, a suspension order came to be passed on 08.03.2018 on the ground that the petitioner was arrested and remanded to judicial custody and therefore, the deemed suspension started operating from the date of detention.

4. The grievance of the petitioner is that there is absolutely no progress in the criminal case and no charge memo has been issued against the petitioner and the petitioner is being kept under prolonged suspension and the same is against the dictum of the Hon'ble Supreme Court in Ajay Kumar Choudhary Vs. Union of India reported in 2015(7) SCC Page 291. The petitioner had also made a representation on 16.10.2019 requesting the respondent to revoke the order of suspension and reinstate the petitioner into service and the same was also not considered. In view of the same, the petitioner left with no other alternative, has approached this Court challenging the original suspension order that was passed against him on 08.03.2018.

5. The learned counsel appearing on behalf of the petitioner submitted that the petitioner is suffering with a false criminal case that has been foisted against him. The learned counsel further submitted that the order of suspension was passed on 08.03.2018 and till now no charge memo has been issued against the petitioner and there has been absolutely no progress in the criminal case and therefore, the petitioner cannot be kept under such a prolonged period of suspension and petitioner is entitled to be reinstated. The learned counsel in order to substantiate his submissions relied upon the judgment of the Hon'ble Supreme Court in Ajay Kumar Choudhary Vs. Union of India reported in 2015(7) SCC Page 291 and also the judgment of the Hon'ble Supreme Court in State of Tamilnadu Vs. Pramothkumar.

सत्यमेव जयते

6. Per contra, Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader appearing on behalf of the respondents submitted that the representation that has been given by the petitioner for revocation of the suspension is under consideration by the respondents and therefore the same will be considered and orders will be passed within a time limit that can be fixed by this Court. The learned counsel submitted that at this length of time there is no requirement to interfere with the suspension order.

7. This Court has carefully considered the submissions on either side and the materials available on record.

8. The main grievance that has been expressed by the petitioner is with regard to the prolonged suspension which continues from 08.03.2018 onwards. The claim of the

petitioner is that he has been roped in a false criminal case and that till date there is no progress in the criminal case and no charge memo has been issued against the petitioner.

9. Taking into consideration the facts and circumstances of the case, this Court deems it fit to direct the respondent to consider the representation made by the petitioner on 16.10.2019 on its own merits and in accordance with law and pass appropriate orders within a period of four (4) weeks from the date of receipt of copy of this order. The petitioner is directed to give a fresh representation to the respondent along with a copy of the representation dated 16.10.2019 and copy of this order.

10. This writ petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

kkn

To:-

The Chief Secretary to Government,
Government of Tamil Nadu,
Public (Special-A) Department,
Secretariat, Chennai - 600 009.

+1cc to Mr.M.Ravi , Advocate SR.No. 106419

+1 cc to Government Pleader Sr.No. 106707

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A.SK(30/01/2020)

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