



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2019

CORAM :

THE HON'BLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.35046 of 2019

and

WMP.No.35827 of 2019

G.Ayyavu

...Petitioner

Vs.

1.The District Collector,
The District Collector Office,
Dharmapuri,
Dharmapuri District.

2.The Block Development Officer,
Nallampalli Block,
Dharmapuri District.

3.The Inspector of Police,
Vigilance & Anti Corruption Department,
Dharmapuri-I/c.
Krishnagiri,
Krishnagiri District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for records pertaining to the proceedings of the 1st respondent in Roc.No.2311/19/K4 dated 19.02.2019 and quash the same as illegal, improper, incompetent, arbitrary and ultra virus and consequentially direct the 1st respondent herein to reinstate the petitioner in the post of Overseer in the Block Development Office.

For Petitioner: Mr.R.Singaravelan

Senior Counsel for

Mr.C.Palanisamy

For Respondents: Mrs.K.Bhuvaneswari for R1 & R3
Additional Government Pleader

Mr.N.Srinivasan for R2

Additional Government Pleader



O R D E R

Mrs.K.Bhuvaneswari, learned Additional Government Pleader takes notice for the first and third respondent and Mr.N.Srinivasan, learned Additional Government Pleader, takes notice for the second respondent. By consent of the learned counsels on either side, this writ petition is taken up for final disposal at the admission stage itself.

2.This writ petition has been filed challenging the proceedings through which the petitioner was suspended from service pending initiation of Departmental Proceedings against him.

3.The case of the petitioner is that he was working as Overseer in Block Development Office, at Nallampalli Block, Dharmapuri District. Based on a complaint given by one M.Pachiappan on 15.02.2019, an FIR came to be registered in Crime No.1/AC/2019 for the offence under Section 7(a) of the Prevention of Corruption Act. This criminal proceeding resulted in suspension order being passed by the first respondent and the petitioner is kept under suspension from February 2019 onwards. This suspension has now been made the subject matter of challenge in the present writ petition.

4.Mr.R.Singaravelan, learned Senior Counsel, appearing on behalf of the petitioner submitted that no charge memo has been issued by the third respondent till date and the petitioner cannot be kept under prolonged suspension and the same directly goes against the dictum of the Honourable Supreme Court in the case of Ajay Kumar Choudhary Vs. Union of India reported in CDJ 2015 SC 129. The learned senior counsel further submitted that the petitioner has already made a representation to the first respondent requesting him to revoke the suspension, on 31.05.2019 and till date, no orders have been passed. Left with no other option, the petitioner has approached this Court challenging the suspension order.

5.Per contra, Mr.T.N.Srinivasan, learned Additional Government Pleader, appearing on behalf of the second respondent submitted that the petitioner was suspended pending grave criminal case that has been registered against the petitioner. The learned senior counsel submitted that the representation made by the petitioner will be considered in accordance with law and a decision will be taken regarding the revocation of suspension.

6.This Court has carefully considered the submissions made on either side and perused the materials available on record.



7.The law with regard to placing an employee under prolonged suspension, has been well settled by the judgment of the Honourable Supreme Court in the case Ajay Kumar Choudhary Vs. Union of India reported in CDJ 2015 SC 129 and in the case of State of Tamil Nadu Vs.Pramod Kumar IPS and another in Civil Appeal Nos.8427 to 8428 of 2018. This Court also had an occasion to deal with the similar issue in K.Selvamani Vs. The State of Tamil Nadu reported in 2017 (1) CTC 795. The first respondent has to consider the representation made by the petitioner in line with the dictum of the judgment that have been cited supra. The petitioner is directed to make a fresh representation to the first respondent along with a copy of the representation dated 31.05.2019 and a copy of this order.

8.This writ petition is disposed of with a direction to the first respondent to consider the representation made by the petitioner on 31.05.2019 and pass appropriate orders in line with the above judgments, within a period of four weeks from the date of receipt of copy of this order. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

- 1.The District Collector,
The District Collector Office,
Dharmapuri, Dharmapuri District.
- 2.The Block Development Officer,
Nallampalli Block,
Dharmapuri District.
- 3.The Inspector of Police,
Vigilance & Anti Corruption Department,
Dharmapuri-I/c.
Krishnagiri, Krishnagiri District.

+2cc to M/s.C.Palanisamy, Advocate Sr.105160

W.P.No.35046 of 2019
and
WMP.No.35827 of 2019