

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2019

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.29082 of 2018

G.Gunasekaran

...

Petitioner

-Vs-

- 1.The Joint Director of School
DPI campus Chennai 600 006.
- 2.The Chief Educational officer
Coimbatore.

...

Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified Mandamus calling for the records of the first respondent in RC No.17689/A3/S2/2018 dated 02.05.2018 quash the same and consequently direct the respondents to reinstate the petitioner by following the judgment of the Honble supreme the petitioner by following the judgment of the honble supreme Court in the case of Ajay kumar Choudhry's case.

For Petitioners : Ms.Dakshayani Reddy

For Respondents : Mrs.P.Kavitha,
Government Advocate

सत्यमेव जयते
O R D E R

The petitioner was appointed as Record Clerk and he has put in 25 years of service. Presently, he is working as Superintendent. In the year 2017, the Teachers Recruitment Board gave a criminal complaint alleging certain illegalities in the recruitment to the post of Lecturers in Government Polytechnic Colleges. The complaint was against M/s.Data Methodox Private Limited, a company which was entrusted with the information technology related works with respect to the said recruitment. It is the claim of the petitioner that the petitioner's name was not included as accused during the preliminary investigation, and that only subsequently the petitioner was called during the course of investigation and was

arrested. The impugned order of suspension dated 02.05.2018 was issued on the ground that the petitioner was in police custody for more than 48 hours.

2. Learned counsel for the petitioner would submit that the petitioner has no role to play in the complaint alleged. Learned counsel would further submit that the suspension of the co accused has been revoked and they have also been promoted and there is no reason as to why the petitioner alone is singled out. The petitioner came to know that a subsequent order dated 05.12.2018 has been passed, rejecting the petitioner's representation for revocation of suspension, which has not been communicated to the petitioner. Learned counsel for the petitioner points out that the present writ petition, challenging the order of suspension has been filed on 30.10.2018 and that the respondents ought not to have rejected the representation for revocation of suspension especially when the matter is pending consideration before this Court.

3. Mrs.P.Kavitha, learned counsel for the petitioner takes notice on behalf of the respondents.

4. In the case of Ajay Kumar Choudhary -vs- Union of India (2015) 7 S.C.C.291, the Supreme Court had deprecated the act of the employers in keeping its employees under prolonged suspension. The Supreme Court has laid down that suspension of an employee is injurious to his interests and must not be continued for an unreasonable long period; the currency of suspension order should not extend beyond three months if within this period the memorandum of charges / charge sheet is not served on the delinquent officer / employee; if the memorandum of charges / charge sheet is served, a reasoned order must be passed for extension of suspension.

5. In the case on hand, it is not in dispute that the suspension of the co-accused has been revoked and the petitioner's case has been singled out. This court is of the opinion that the respondents ought to have considered the petitioner's case, particularly, when the co-accused's suspension has been revoked and they are reinstated into service. Such being the case, keeping the petitioner under prolonged suspension, as laid down by the Supreme Court, would be illegal. Therefore, the suspension order ought to have been set aside.

6. Accordingly, for the reasons aforesaid this writ petition is disposed of, by revoking the order of suspension dated 02.05.2018, and with a further direction to the respondents to post the petitioner in a non-sensitive post, by imposing reasonable conditions. The respondents shall take all further steps to complete the criminal case at the earliest point of time. Consequently, connected miscellaneous petitions are closed. However, there shall be no order as to costs.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

kst

To

1.The Joint Director of School
DPI campus Chennai 600 006.

2.The Chief Educational officer
Coimbatore.

+1 CC to Ms.Dakshayani Reddy, Advocate sr 665.

+1 CC to Govt. Pleader sr 1457.

W.P.No.29082 of 2018

SP(28/01/2019)

सत्यमेव जयते

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