



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

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W.P. (MD) No.18708 of 2015

and

M.P. (MD) Nos.1 & 2 of 2015

R.Kanagaraj

... Petitioner

vs.

1. The District Educational Officer
O/o.the District Educational Office
Tirunelveli District

2. Hindu Nadar Uravinmurai Committee
Higher Secondary School
rep.by its Headmaster
Ariyanayakipuram
Kadayanaloor Taluk
Tirunelveli District

3. S.Muthiah
[R3 impleaded vide Court order
dated 22.11.2016 in W.M.P.(MD)
No.5363 of 2016]

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorari to call for the records of the Impugned order of Suspension passed by the 1st respondent in Na.Ka.No.4488/A5/2014 dated 06.10.2015 and quash the same as illegal.

For Petitioner : Mr.J.Anandkumar

For Respondents : Mrs.S.Srimathi

Special Government Pleader for R1

Mr.V.Meenakshisundaram for R2

No appearance for R3

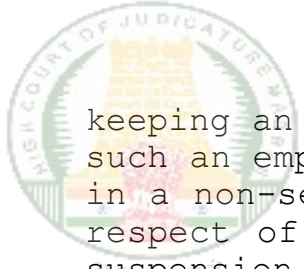
O R D E R

The order of suspension, dated 06.10.2015, passed by the first respondent, is under challenge in the present writ petition.

2. The writ petitioner, who was working as Physical Education Teacher in the second respondent School, was placed under suspension, on the ground that a criminal case was registered against him and he was kept under the custody for more than 48

<https://hcservices.courts.gov.in/hcservices/>

3. Undoubtedly, prolonged suspension is bad in law. In case the criminal cases are not disposed of within a reasonable time,

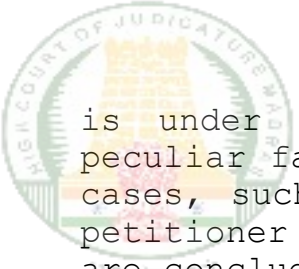


keeping an employee under suspension is not preferable. Contrarily, such an employee can be reinstated into service and he may be posted in a non-sensitive post. This Court has taken a consistent view in respect of the prolonged suspension that keeping an employee under suspension for an unspecified period will cause financial loss to the State Exchequer. Thus, in the event of non-availability of materials for the purpose of continuing the disciplinary proceedings, the authorities competent shall revoke the order of suspension and post the employee concerned in the non-sensitive post till the disposal of the criminal case or the departmental disciplinary proceedings.

4. However, the peculiar fact placed before this Court in the present writ petition is the obstacle for the purpose of granting the relief as such sought for by the writ petitioner. The writ petitioner is a Teacher. The counter affidavit filed by the first respondent reveals that the Sub-Inspector of Police, Sernthamaram Police Station, sent a report, on 06.10.2015, to the District Educational Officer, Tirunelveli, stating that the writ petitioner has involved in several criminal cases and the recent one is Crime No.316 of 2015, under Sections 420, 294(b), 323 and 506(ii) I.P.C. In Crime No.316 of 2015, the writ petitioner was arrested and remanded to judicial custody on 27.09.2015 and he was incarcerated from 27.09.2015 to 07.10.2015. The Principal Sessions Judge, Tirunelveli, by order dated 07.10.2015, in CrI.M.P.No.6070 of 2015, released him on bail, subject to the condition that he should sign before Sernthamaram Police Station, daily at 10.30 a.m., for a period of one month. The details of the criminal cases against the writ petitioner are extracted hereunder:

- "1) Sernthamaram Police Station Crime No.194/2009 under Section 147, 148, 355, 323, 506(i) IPC (STC No.5506/2009)
- 2) Sernthamaram Police Station Crime No.177/2013 under Section 420, 294(b), 506(i) IPC (C.C.No.170/2014)
- 3) Sernthamaram Police Station Crime No.14/2014 under section 107 Cr.P.C.
- 4) Sernthamaram Police Station Crime No.254/2014 under Section 294(b), 323, 506(i) IPC
- 5) Sernthamaram Police Station Crime No.246/2015 under section 120(b), 467, 468, 471, 420 IPC.
- 6) Sernthamaram Police Station Crime No.286/2015 under section 147, 148, 341, 294(b), 323, 506 (ii) IPC."

5. In view of the fact that the writ petitioner, who was working as Teacher, has involved in several number of criminal cases and the criminal cases are pending and the investigations are going on, this Court is not inclined to consider the case of the writ petitioner for revocation of suspension. Though the writ petitioner



is under suspension for more than four years, in view of the peculiar fact that a Teacher has involved in more than six criminal cases, such a leniency is not desirable and consequently, the writ petitioner is bound to be under suspension till the investigations are concluded in all these criminal cases.

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6. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

Sub Assistant Registrar(CS)

krk

To:
The District Educational Officer,
O/o.The District Educational Office,
Tirunelveli District.

+ 1 CC TO Mr.D.Nallathambi, ADVOCATE IN SR No.72291
+ 1 CC to The Special Government Pleader SR.No.72139

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KS (CS) : (09.07.2019) 3 P 4 C