



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.23045 of 2019

and

W.M.P (MD) .No.19787 of 2019

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S.Krishnakumar

... Petitioner

-Vs-

The Superintendent of Police
Kanyakumari District
at Nagercoil

....Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the impugned order of suspension passed by the respondent in D.O.No.325/2019 C.No.L1/17297/2019 dated 02.05.2019 and quash the same and consequently directing the respondent herein to permit the petitioner to join duty as Head Constable at Rajakkamangalam Police Station.

For Petitioner : Mr.D.Srinivasaragavan

For Respondent : Mr.C.Ramar

Additional Government Pleader

ORDER

The writ petition has been filed to call for the impugned order of suspension passed by the respondent in D.O.No.325/2019 C.No.L1/17297/2019, dated 02.05.2019 and quash the same and consequently, directing the respondent herein to permit the petitioner to join duty as Head Constable at Rajakkamangalam Police Station.

2.The petitioner while working as a Head Constable at Rajakkamangalam Police Station, Kanyakumari District, was suspended from service by an impugned order dated 02.05.2019 pending enquiry, for framing charges. The petitioner was issued charge memo dated 06.06.2019. Subsequently, another charge memo dated 06.08.2019 was issued. According to the petitioner, he is innocent and the charges framed on vague allegations. The petitioner was suspended on the ground of pending enquiry into grave charges. On the other hand, no enquiry was pending against the petitioner on the date of suspension. The order of suspension is dated 02.05.2019 and the



charge memo was issued only on 06.06.2019. Even after a lapse of five months from the date of suspension, there is no progress in the disciplinary proceedings. Hence, the petitioner gave a representation dated 12.07.2019 to revoke the suspension.

3.The learned counsel appearing for the petitioner contended that the petitioner cannot be kept under suspension indefinitely and he relied on the Judgment of the Hon'ble Apex reported ***in (2015) 7 SCC 291 in the case of Ajay Kumar Choudhary Vs. Union of India through its Secretary & others***. He further contended that the order of suspension is to be reviewed after three months and the disciplinary authority must give reason, if they extend the order of suspension or the delinquent employee may be posted in non sensitive post. Hence, he prayed for rejection of the order of suspension.

4.The learned Additional Government Pleader appearing for the respondent submitted that only due to delaying tactics of the petitioner, the disciplinary proceedings could not be concluded. The petitioner has not submitted his explanation to the charges levelled against him. The charges levelled against the petitioner are grave in nature and hence, he prayed for dismissal of this Writ petition.

5.Heard Mr.D.Srinivasaragavan, learned counsel appearing for the petitioner and Mr.C.Ramar, learned Additional Government Pleader appearing for the respondent.

6.From the materials on record, it is seen that the petitioner was suspended from service on 02.05.2019 pending enquiry into grave charges against the petitioner. For the past five months the petitioner is kept under suspension. The Hon'ble Apex Court in the Judgment reported in ***(2015) 7 SCC 291*** in the case of ***Ajay Kumar Choudhary Vs. Union of India through its Secretary & others***, held that the employee cannot be kept under suspension indefinitely. The order of suspension must be reviewed periodically and if the Disciplinary Authority is of the opinion that the order of suspension may be extended, they must record the reason for such extension. In the present case on hand, the petitioner gave representation for revocation of the order of suspension. The petitioner was issued charge memo only on 06.06.2019.

7.Considering the above facts and circumstances of the case, the respondent is directed to consider the representation of the petitioner, dated 12.07.2019 and pass orders in consonance with the Judgment of the Hon'ble Apex Court reported in ***(2015) 7 SCC 291***, within a period of eight weeks from the date of receipt of a copy of this order. If the respondent is of the opinion that the petitioner's suspension may be extended, he must record the reason for the same, otherwise the petitioner may be transferred to non sensitive post after revoking the suspension.



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8. With the above direction, this Writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

/ True Copy /

Sub Assistant Registrar (CS-)

To

The Superintendent of Police
Kanyakumari District
at Nagercoil

+1 CC to M/s.D.SRINIVASARAGAVAN, Advocate
(SR-95662[F] dated 01/11/2019)

+1 CC to M/s.GP (SR-95965[F] dated 04/11/2019)

W.P. (MD) No.23045 of 2019

and

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01.11.2019

msa

ES/15.11.2019/3P/4C