

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVIL

WRIT PETITION No.47180 of 2018

ORDER:

This writ petition is filed seeking following relief :-

“..... to grant appropriate relief more particularly one in the nature of Writ of Mandamus under Art. 226 of the Constitution of India declaring the action of the respondents more particularly the 1st respondent in continuing the petitioner under suspension beyond 3 months from the date of suspension issued by the 1st Respondent vide Proc.No. B1/ 265/ 2018/ ZPP dated 28.04.2018 is illegal, arbitrary, discretion, malafide and unconstitutional violating Articles 14, 16 and 21 of the Constitution of India apart from suspension from contrary to law, in the Hon'ble Supreme Court in two cases i.e., Ajay Kumar Choudary Vs. Union of India reported in 2015 (7) SCC 291 and State of Tamil Nadu represented by Secretary to Government Vs. Pramod Kumar IPS and another apart from wasting public exchequer against the administrative interest and issue constitutional direction directing the Respondents to forthwith reinstate the Petitioner into service and allow the Appellants to continue in the post which the Petitioner is holding prior to the issue of Proc.No. B1/ 265/ 2018/ ZPP, dated 28.04.2018 by the 1st Respondent and pay the full salary to the Petitioner from August 2018 after deducting the subsistence allowance already paid till September 2018....”.

Heard Mr.P.V.Krishnaiah, learned counsel appearing for petitioner and the learned Government Pleader for Services-II.

It is the case of the petitioner that she is working as Mandal Parishad Development Officer on full additional charge. While the petitioner was discharging her duties, the 1st respondent has placed the petitioner under suspension vide proceedings dated 28.04.2018, contemplating disciplinary action. The petitioner further submits that in spite of lapse of more than three months, the respondents

have neither initiated disciplinary action nor issued any charge Memo.

Learned counsel for petitioner contends that if the respondents have not initiated any action within three months from the date of placing an employee under suspension, in all fairness, the respondents ought to have revoked the suspension orders.

To strengthen his argument, learned counsel for petitioner has relied upon the judgments of the Hon'ble Supreme Court in *AJAY KUMAR CHOUDARY Vs. UNION OF INDIA*¹ and *STATE OF TAMILNADU REP. BY SECRETARY TO GOVERNMENT Vs. PRAMOD KUMAR IPS AND ANOTHER*² and contended that the Hon'ble Supreme Court had categorically held that when no disciplinary action is initiated even after three months of placing an employee under suspension, the employee should be reinstated into service.

Learned counsel for petitioner further contended that though the respondents have placed the petitioner under suspension, thereafter they have not taken any steps either for initiating any disciplinary action or for reviewing the suspension order in terms of G.O.Ms.No.86 dated 08.03.1994.

Learned counsel for petitioner further contended that an employee can be placed under suspension on any of the following grounds i.e, in public interest and to ensure that the employee does not tinker and tamper the record and also to ensure that the employee against whom disciplinary action is initiated does not influence a court witness. But, in the instant case, none of these issues are involved and so far the respondents have not even

¹ 2015 (7) SCC 291

² 2018 SCC Online SC 1079

initiated any disciplinary action and the question of tinkering and tampering the record would not arise and influencing the witness also would not arise. Therefore, the counsel for petitioner contends that appropriate orders be passed in the writ petition directing the respondents to review the suspension order of the petitioner in terms of G.O.Ms.No.86 dated 08.03.1994 within a reasonable period, failing which the petitioner be reinstated into service.

Learned Government Pleader appearing for respondents has contended that the case of the petitioner would be reviewed in accordance with law and appropriate orders would be passed.

This court, having considered the rival submissions, is of the considered view that this writ petition can be disposed of directing the 1st respondent to review the suspension order of the petitioner in terms of G.O.Ms.No.86 dated 08.03.1994 and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order.

With the above observations, the writ petition is disposed of. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

13-02-2019
Prv