

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 03.02.2020
CORAM
THE HON'BLE MR.JUSTICE N.ANAND VENKATESH
W.P.No.89 of 2020
and WMP No.105/2020

S.Kumar

.. Petitioner

.v.

1.The Director of Agriculture,
Chepauk,
Chennai-600 005.

2.The Joint Director of Agriculture,
Thiruvannamalai,
Thiruvannamalai District.

3.The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Thiruvannamalai Detachment,
Thiruvannamalai,
Thiruvannamalai District.

... Respondents

Prayer:- Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned orders dated 11.05.2017 in Na.B3/7451/2017 and its consequential order dated 14.05.2019 in Letter No.Aa3/7451/2017 passed by the 2nd respondent and quash the same, consequently direct the 2nd respondent to re-instate the petitioner as Assistant Agricultural Officer within stipulated time.

For Petitioner : Mr.M.R.Jothimanian

For Respondents : Mr.P.S.Sivashanmugasundaram
Special Government Pleader

O R D E R

This Writ Petition has been filed challenging the suspension Order passed by the 2nd respondent and for a direction to the respondent to re-instate the petitioner into service as Assistant Agricultural Officer.

2.The case of the petitioner is that he was working as an Assistant Agricultural Officer in the 1st respondent Department. A criminal case came to be registered against the petitioner in Cr.No.4/2017, for an offence under Section 7 of the Prevention of Corruption Act. The petitioner was arrested and remanded to judicial custody on 10.05.2017. Pursuant to the same, the impugned suspension Order came to be passed by the 2nd respondent on 11.05.2017.

3.The petitioner approached this Court and filed W.P.No.12817 of 2018, for a direction to the respondent to revoke the Order of suspension based on the representation made by the petitioner. This Court directed the respondent to consider the representation and pass appropriate orders. Pursuant to the Orders passed by this Court, the 2nd respondent by his proceedings dated, 14.05.2019, has declined to revoke the suspension and the petitioner continues to be kept under suspension till date. Therefore, both the Orders passed by the 2nd respondent has been challenged in the present Writ Petition.

4.The learned counsel for the petitioner submitted that the petitioner cannot be kept under prolonged suspension and even in the case of corruption, the respondent has to review the order of suspension periodically. The learned counsel in order to substantiate his submission, relied upon the judgment of the Hon'ble Supreme Court in Ajay Kumar Choudhary .v. Union of India reported in [2015 7 SCC 291].

5.Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader appearing on behalf of the respondents submitted that the Charges against the petitioner are very serious. The learned counsel submitted that the petitioner was caught red handed while accepting bribe and he was also arrested and remanded to judicial custody. The learned counsel further submitted that the investigation has been completed in the criminal proceedings and a Final Report has already been filed before the learned Chief Judicial Magistrate, Tiruvannamalai. The learned counsel further submitted that the case has been taken on file in SPL.C.C.No.1/2020. The learned counsel therefore requested this Court to fix a time limit for completion of the criminal proceedings and till then the suspension of the petitioner should not be revoked.

6.The petitioner has been kept under suspension for the last 2 ½ years. The Final Report has now been filed before the concerned Court. The petitioner has been unnecessarily paid subsistence allowance for more than 2 ½ years without extracting

any work. This Court has considered the entire issue and the judgment of this Court in S.Raju .v. The Chairman, Tamil Nadu Electricity Board, in W.P.No.11967 of 2018, dated 25.07.2019, has categorically held that such payment of subsistence allowance for a long time drains the public exchequer. This Court held that in all such cases, the delinquent employee can be posted in some non-sensitive post and he can be paid the monthly salary after extracting work.

7.In the considered view of this Court, the continuation of the petitioner under suspension will not be of any use since the charge sheet itself has been filed only recently. Therefore, there shall be a direction to the petitioner to give a representation to the 2nd respondent, seeking for revocation of suspension and the 2nd respondent shall pass appropriate orders revoking the suspension and posting the petitioner in a non-sensitive post.

8.There shall be a direction to the learned Chief Judicial Magistrate, Tiruvannamalai, to complete the proceedings in SPL.C.C.No.1/20 20, within a period of four months from the date of receipt of copy of this order. The learned Judge is directed to conduct the proceedings on a day to day basis and no unnecessary adjournments shall be granted in this case. A copy of this order shall also be marked to the Chief Judicial Magistrate, Tiruvannamalai.

This Writ Petition is disposed of with the above directions. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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KP
To

1.The Director of Agriculture,
Chepauk,
Chennai-600 005.

2.The Joint Director of Agriculture,
Thiruvannamalai,
Thiruvannamalai District.

3.The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Thiruvannamalai Detachment,
Thiruvannamalai,
Thiruvannamalai District.

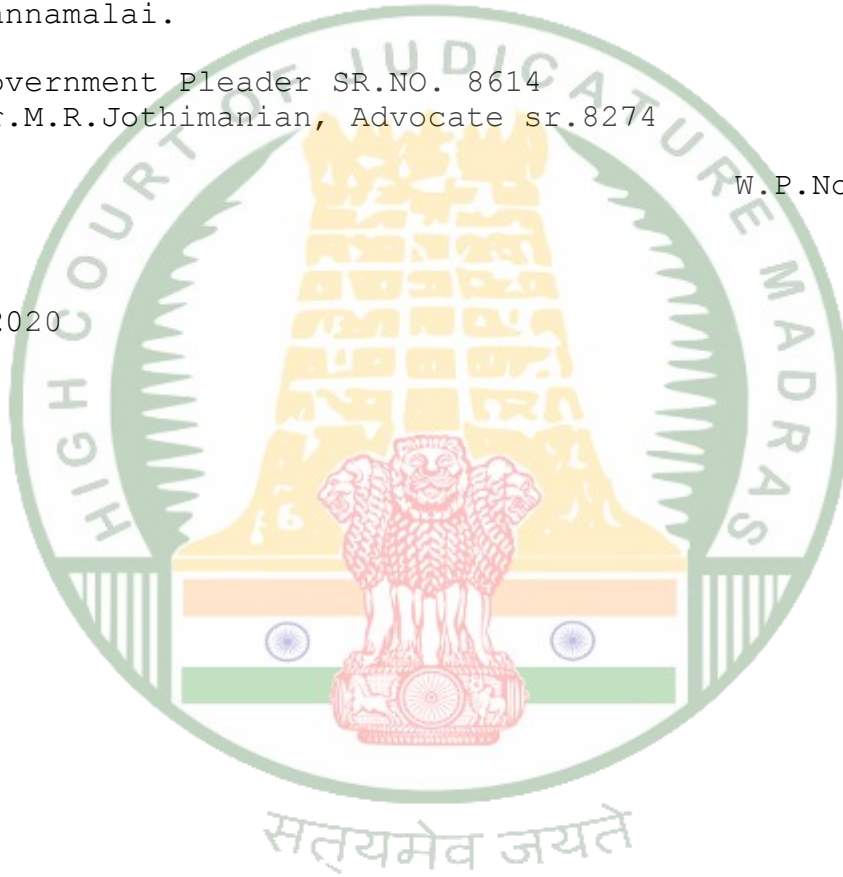
4.The Chief Judicial Magistrate,
Tiruvannamalai.

+1cc to Government Pleader SR.NO. 8614

+1cc to Mr.M.R.Jothimanian, Advocate sr.8274

W.P.No.89 of 2020

gp(co)
nr 25/02/2020



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