

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.01.2020

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.231 of 2020
and
WMP Nos.261 and 263 of 2019

M.Sivasamy

...Petitioner

Vs.

1. The Principal Secretary to Government,
Revenue and Disaster Management Department,
Government of Tamil Nadu,
Secretariat, Fort St. George, Chennai 600 009.
2. The Commissioner of Revenue Administration,
Chepauk, Chennai 600 005. ...Respondents

Prayer:- Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order issued by the 1st respondent in G.O.(2D) No.369, Revenue and Disaster Management Department dated 13.12.2018 and to quash the same and consequently, direct the respondents to reinstate the petitioner into service as District Manager (Retail Vending) with consequential and attendant benefits.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.P.S.Sivashanmuga Sundaram
Special Government Pleader

ORDER

By consent, this writ petition is taken up for final disposal.

2. This writ petition has been filed challenging the order of suspension passed by the 1st respondent dated 13.12.2018 and for a consequential direction to direct the respondents to reinstate the petitioner into service.

3. The case of the petitioner is that he was appointed as a District Manager of Tamil Nadu State Marketing Corporation (TASMAC), Villupuram, in the year 2018. He was given the job of supervising and controlling the liquor

vending shops within the District. It is seen from records that one S.Ramamoorthy, was employed as a Salesman at Saram Village, Tindivanam Taluk. There was a agitation for shifting the shop. Therefore, the petitioner had passed an order of transferring the said Ramamoorthy to a different shop. The transfer order was passed on administrative reasons. This transfer order was opposed by the said Ramamoorthy and it is the case of the petitioner that he, out of malafides, lodged a complaint against the petitioner as if the petitioner had sought for money in order to retain him in the same TASMACH shop. A criminal case came to be registered in Crime No.16 of 2018 by the Vigilance and Anti Corruption police.

4. The petitioner was placed under suspension by an order dated 13.12.2018 passed by the 1st respondent with effect from 04.08.2018, when the petitioner was arrested and was kept in custody. This suspension continuous and the petitioner has also made a representation for revocation of the order of suspension. Since the same has not been considered, the present writ petition has been filed challenging the suspension order passed by the 1st respondent.

5. Mr.G.Sankaran, learned counsel appearing for the petitioner submitted that the petitioner has been victimised and he has been intentionally roped in a criminal case by a disgruntled employee, who was aggrieved by the transfer order passed by the petitioner. The learned counsel submitted that a plain reading of the complaint itself shows that no money was recovered from the petitioner and it was actually kept in the bed inside the room and the learned counsel submitted that this was planted by the disgruntled employee. The learned counsel further submitted that there is absolutely no progress in the criminal case and the petitioner continues to be kept under suspension. Therefore, left with no other option, the present writ petition has been filed before this Court.

5. Mr.G.Sankaran, learned counsel for the petitioner in order to substantiate his submissions placed reliance upon the judgement of the Hon'ble Supreme Court in [Ajay Kumar Choudhary Vs. Union of India and others] reported in 2015 7 SCC 291.

6. Per contra, Mr.P.S.Siva Shanmuga Sundaram, learned counsel appearing for the respondents submitted that the petitioner has already made a representation on 05.04.2019, requesting for the revocation of the order of suspension and the same will be considered in accordance with law.

7. This Court has carefully considered the submissions made on either side and also perused the materials available on record.

8. It is seen from records that there is a criminal case pending against the petitioner under the Prevention of

Corruption Act. According to the petitioner, he has been falsely roped in, in a criminal case by a disgruntled employee and according to the petitioner, the entire criminal case is tainted with malafides. The further grievance of the petitioner is that the suspension order was passed by the 1st respondent on 13.12.2018 and till date, no charge memo has been given to the petitioner and the suspension is continuing for more than a year. The learned counsel for the petitioner has also placed reliance upon the judgment of the Hon'ble Supreme Court in Ajaykumar Choudhary case referred supra, wherein, the Hon'ble Supreme Court has held that an employee cannot be indefinitely kept under suspension, more particularly, where no charge memo has been issued against the employee.

9. Taking into consideration the facts and circumstances of the case and the nature of grievance that has been expressed by the petitioner, there shall be a direction to the 1st respondent to consider the representation made by the petitioner on 05.04.2019, for revocation of suspension and pass appropriate orders, within a period of four weeks from the date of receipt of a copy of this order, posting the petitioner in any non-sensitive post.

10. This writ petition is disposed of with the above directions. No costs. Consequently, the connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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TO

1. The Principal Secretary to Government,
Revenue and Disaster Management Department,
Government of Tamil Nadu,
Secretariat, Fort St. George, Chennai 600 009.

2. The Commissioner of Revenue Administration,
Chepauk, Chennai 600 005.

+1cc to Mr.G.Sankaran, Advocate, S.R.No. 1851
+1cc to the Government Pleader, S.R.No. 1944

W.P.No.231 of 2020

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