

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.01.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.753 of 2020
and
W.M.P. No.910 of 2020

S.Muthaiyan

Petitioner

vs.

The Registrar, Incharge,
Annamalai University,
Annamalai Nagar,
Chidambaram,
Cuddalore District.

Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondent in proceedings No.Estt./C1-10/2017 dated 13.09.2017 and consequential order in University Order No.146/2019C1] dated 09.04.2019 and quash the same and consequently direct the respondent to reinstate the petitioner and regularise the period of suspension as duty and pay the arrears of salary.

For Petitioner : Mr.K.Shiva Kumar for
M/s.Vijayan Associates

For Respondent : Mr.K.Sathish Kumar
Standing Counsel

O R D E R

This writ petition has been filed challenging the impugned proceedings dated 13.09.2017 and 09.04.2019 and for a consequential direction to reinstate the petitioner with all attendant benefits.

2.The case of the petitioner is that he was working as a Junior Assistant in the respondent University. An FIR came to be registered in Crime No.539 of 2017 and the petitioner was also added as an accused. Pursuant to the same, a suspension order came to be passed by the respondent on 13.09.2019. The petitioner made a representation to revoke the suspension order. Since the same was not considered, the petitioner approached

this Court and filed W.P.No.5871 of 2018 and this Court disposed of the writ petition by an order dated 25.01.2019 directing the respondent to consider the representation made by the petitioner and pass appropriate orders in line with the judgment of the Hon'ble Supreme Court in Ajay Kumar Choudary vs. Union of India reported in 2015 (7) SCC 291. Subsequent to the order passed by this Court, earlier order of suspension was extended by subsequent order dated 09.04.2019. This order has also been put under challenge in the present writ petition.

3.As a subsequent development, the petitioner has challenged the FIR in Crime No.539 of 2017 and this Court, by an order dated 03.09.2019, was pleased to entertain the petition and an interim stay of further investigation has been granted by this Court. This subsequent development has been brought to the notice of the respondent and respondent was requested to revoke the suspension. This representation did not evoke any response and therefore, the present writ petition has been filed before this Court.

4.Heard Mr.Shivakumar, learned counsel appearing on behalf of the petitioner and Mr.K.Sathish Kumar, learned Standing Counsel appearing on behalf of the respondent.

5.It is seen from records that the petitioner has been kept under suspension from the year 2017 onwards based on the FIR registered in Crime No.539 of 2017. Since the petitioner was kept under prolonged suspension, he approached this Court and this Court directed the respondent to review the suspension in line with the judgment of the Hon'ble Supreme Court in Ajay Kumar Choudary vs. Union of India reported in 2015 (7) SCC 291. Pursuant to the orders passed by this Court, the respondent has again reiterated the earlier stand and has extended the period of suspension by proceedings dated 09.04.2019.

6.The petitioner has challenged the criminal proceedings before this Court by filing Crl.O.P.No.23711 of 2019 and this Court also granted stay of the investigation by an order dated 03.09.2019. The petitioner therefore claims that in view of this subsequent development, there is no justification on the part of the respondent to continue to keep the petitioner under suspension and therefore, the petitioner again approached this Court challenging the original suspension order as well as the subsequent order extending the suspension.

7.The Hon'ble Supreme Court in Ajay Kumar Choudary vs. Union of India referred supra has categorically held that delinquent employee cannot be kept under prolonged suspension. In this case, the criminal proceedings has been stayed by this Court and the respondent has not thought it fit to initiate any departmental proceedings against the petitioner. Therefore,

paying the petitioner subsistence allowance for such a long time without extracting any work from the petitioner is a complete waste of money for the respondent University. The University cannot afford to keep paying the subsistence allowances without work done by the petitioner. In view of the stay granted by this Court, no useful purpose will be served by prolonging the suspension order passed against the petitioner.

8. In view of the above discussion, there shall be a direction to the respondent to consider the representation made by the petitioner dated 13.09.2017 and subsequent order passed by this Court in Crl.O.P.No.23711 of 2019, wherein the criminal proceedings have been stayed and pass appropriate orders within a period of four weeks from the date of receipt of copy of this order by revoking the suspension and permitting the petitioner to work in some insensitive post. It would be better for the respondent University to extract work from the petitioner and pay him the monthly salary rather than keeping the petitioner idle and pay to him the subsistence allowances.

9. The petitioner is directed to make a fresh representation to the respondent along with the copy of the representation dated 14.09.2019 and a copy of this order.

10. This writ petition is disposed of with the above direction. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

ssr

To

1. The Registrar, Incharge,
Annamalai University,
Annamalai Nagar,
Chidambaram, Cuddalore District.

+1cc to Mr.K.M.Vijayan Associates, Advocate, S.R.No. 2973
+1cc to Mr.K.Sathish Kumar, Advocate, S.R.No. 2960

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and W.M.P. No.910 of 2020

EV(CO)
GN(07/02/2020)