

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2020

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.1804 of 2020

and

WMP.No.2098 of 2020

R.P.Iyyapphan

..Petitioner

.v.

1.The Addl. Commissioner of Police,
Traffic Zone,
Veppery,
Chennai-600 007.

2.The Commissioner of Police,
Greater Chennai Police,
Veppery,
Chennai-600 007.

... Respondents

Prayer:- Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, after calling for the concerned records relating to the order in Rc.No.1332/31455/Tr.PR/2018 dated 15.04.2019 passed by the 1st respondent and quash the same and consequently direct the respondents to revoke the suspension order in Rc.No.1332/315/Tr.PR/2018 dated 04.12.2018 passed by the 1st respondent and reinstate the petitioner in service with all consequent monetary and other benefits.

For Petitioner : Mr.M.Gnanasekar

For Respondents : Mr.P.V.Selvakumar

Additional Government Pleader

O R D E R

This Writ Petition has been filed challenging the rejection order passed by the 1st respondent, dated 15.04.2019, wherein, the petitioner had sought for the revocation of the suspension order.

2.The case of the petitioner is that he was working as a Traffic Inspector and an FIR came to be registered against him in Cr.No.11/2018, for an offence under Section 7 of the

Prevention of Corruption Act. The petitioner was arrested and remanded to judicial custody on 30.11.2018. Consequently, a suspension order came to be passed on 04.12.2018, placing the petitioner under suspension pending grave criminal charges.

3.The suspension order passed against the petitioner was continuing for a longtime and therefore, the petitioner had made representations to the respondents to review the order of suspension. This came to be rejected by the 1st respondent by an order dated 15.04.2019. Aggrieved by the same, the present writ petition has been filed before this Court.

4.The learned counsel for the petitioner submitted that even in corruption cases, a delinquent employee cannot be kept under prolonged suspension and the 1st respondent can consider for posting the petitioner in a non-sensitive post. The learned counsel in order to substantiate his submissions, relied upon 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.

5.The learned Additional Government Pleader appearing on behalf of the respondents submitted that the investigation has been completed and a Final Report has already been filed before the learned Chief Judicial Magistrate cum Special Judge, Tiruvallur and it was taken on file in C.C.No.12/2019. The learned Additional Government Pleader submitted that the petitioner was caught red handed while he was accepting bribe and the Final Report shows that there are prima facie materials available against the petitioner. The learned Additional Government Pleader further submitted that the petitioner belonging to the police force was expected to maintain discipline and if the petitioner is again taken back into service, it will have a very adverse impact on all those Officers who believe in clean administration. The learned Additional Government Pleader submitted that some time limit can be fixed for the completion of the criminal case and till then, the suspension of the petitioner can continue.

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

7.The petitioner was suspended from service with effect from 30.11.2018. The order of suspension was passed after the petitioner was arrested and remanded to judicial custody in a corruption case. Now, a Final Report has also been

filed and it has been taken on file by the learned Chief Judicial Magistrate cum Special Judge, Tiruvallur. The only issue that requires consideration is whether the suspension order passed against the petitioner requires a review and whether the petitioner can be placed in any non-sensitive post.

8. In the judgment that has been referred supra, this Court has held that keeping a delinquent employee under continued suspension and paying him subsistence allowance for a long period of time, drains the public exchequer. Presently, the petitioner is not doing any work and he is happily receiving the subsistence allowance every month. It will take some more time for the criminal case to get finally decided.

9. In view of the above, the petitioner is directed to make a fresh representation to the 1st respondent and the 1st respondent is directed to consider the same and review the suspension order and place the petitioner in a non-sensitive post. Orders in this regard shall be passed within a period of four weeks from the date of receipt of copy of this order. By so doing, the petitioner will be made to work and then only he will be paid the salary. There shall also be a direction to the learned Chief Judicial Magistrate cum Special Judge, Tiruvallur, to dispose of C.C.No.12/2019, within a period of three months from the date of receipt of copy of this order. The trial shall be conducted on a day-to-day basis without granting any unnecessary adjournments. If the petitioner tries to drag on the criminal case, the trial Court is even entitled to cancel the bail in accordance with the judgment of the Hon'ble Supreme Court in STATE OF UTTAR PRADESH .Vs. SHAMBHU NATH SINGH reported in (JT 2001 (4) SC 3191). A copy of this order shall also be marked to the learned Chief Judicial Magistrate cum Special Judge, Tiruvallur.

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 (C.S.VIII)

/True Copy/

Sub Assistant Registrar

To

1.The Additional Commissioner of Police,
Traffic Zone,
Veppery,
Chennai-600 007.

2.The Commissioner of Police,
Greater Chennai Police,
Veppery,
Chennai-600 007.

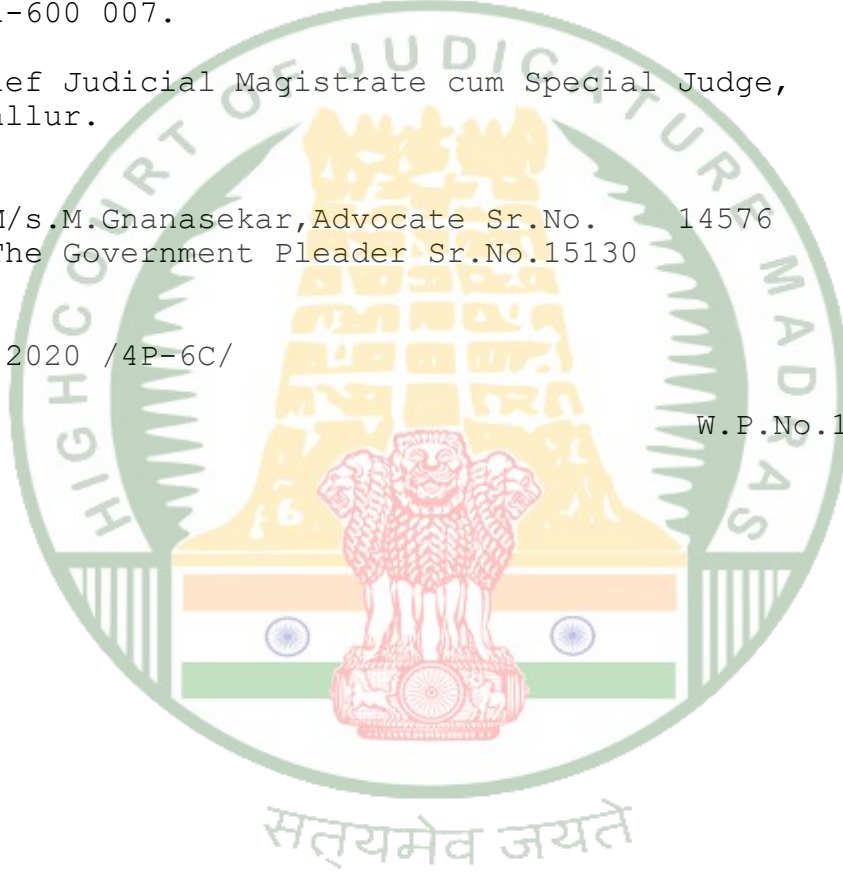
3. The Chief Judicial Magistrate cum Special Judge,
Tiruvallur.

+1 cc to M/s.M.Gnanasekar, Advocate Sr.No. 14576

+1 cc to The Government Pleader Sr.No.15130

AKM/26.02.2020 /4P-6C/

W.P.No.1804 of 2020



WEB COPY