

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2020

CORAM

THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

WP.No.3355 of 2020
and
WMP.No.3896 of 2020

R.Saravanan

.. Petitioner

- Vs -

1. The Block Development Officer,
Morappur Panchayat Union,
Pappireddy Patti Taluk,
Dharmapuri District.

2. The President,
Kethureddipatti Village,
Morappur Panchayat Union,
Pappireddy Patti Taluk,
Dharmapuri District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, directing respondents to revoke prolonged suspension proceedings which was passed against the petitioner vide their proceedings in Na. Ka. No. 3902 dated 24.9.2009 and order of second respondent in Na.Ka.I/2009 dated 24.09.2009 and subsequent rejection order of the 1st respondent in Na. Ka. No. 1477/2010/E2 dated 19.10.2010 and further direct the respondents to grant him all consequential service and monetary benefits including the subsistence allowances from the date of suspension i.e., from 24.9.2009 to till the date final decision taken on the suspension matter in pursuance of the directions issued by the Hon'ble Supreme Court of India in the reported cases in Ajay Kumar Choudry Vs. Union of India (2015) 7 SCC 29 and State of Tamil Nadu Vs. Promod Kumar IPS and another dated 21.08.2018.

For Petitioner : Mr.A.Ilayaperumal

For Respondents : Mr.G.B.Rajesh
Government Advocate for R1

O R D E R

This Writ Petition has been filed for the issue of Writ of Mandamus, directing the respondents to revoke the suspension imposed against the petitioner by proceedings dated 24.09.2009 and the subsequent rejection order dated 19.10.2010.

2. The case of the petitioner is that he was working as a Panchayat Assistant in the second respondent Panchayat Union. A Criminal Case came to be registered against the petitioner in Crime No.13 of 2009 for an offence under Prevention of Corruption Act, 1988. The petitioner was arrested and remanded to judicial custody. The same resulted in a suspension order passed by the first respondent on 24.09.2009. The petitioner gave a representation in the year 2010 requesting for revocation of the suspension order. The first respondent, by his proceedings dated 19.10.2010, refused to revoke the suspension order.

3. The petitioner again approached this Court and filed WP.No.27372 of 2010 and the said Writ Petition was withdrawn. Since the petitioner was kept under prolonged suspension, he again approached this Court by filing WP.No.11419 of 2011 challenging the suspension order and the subsequent rejection order. This Court, by an order dated 29.04.2011, disposed of the Writ Petition by giving liberty to the petitioner to move the respondents seeking revocation of the suspension after charge sheet is filed in the criminal case. The charge sheet was filed in the criminal case on 22.08.2011. The petitioner, therefore, submitted a representation for revocation of the suspension order. Since the same was not considered, the petitioner filed a writ petition in WP.No.31554 of 2014 before this Court. This Court, by an order dated 03.12.2014, directed the first respondent to dispose of the representation made by the petitioner within a period of four weeks. The grievance of the petitioner is that till date, no orders have been passed by the first respondent and the petitioner is continued to be kept under suspension. Aggrieved by the same, the present Writ Petition has been filed before this Court.

4. The learned counsel appearing on behalf of the petitioner submitted that the prolonged suspension for the last ten years goes against the judgment of the Hon'ble Supreme Court in the case of Ajay Kumar Choudry Vs. Union of India reported in (2015) 7 SCC 291. The learned counsel further submitted that this Court has taken into consideration the said judgment of the Hon'ble Supreme Court and has passed orders revoking the order of suspension in WP.No.34019 of 2019 dated 05.12.2019. The learned counsel submitted that the first respondent must be

directed to revoke the order of suspension.

5. Per contra, the learned Government Advocate appearing on behalf of the first respondent submitted that the petitioner is involved in a corruption case and he was caught red handed while receiving the bribe. The learned counsel further submitted that already the request made by the petitioner was rejected by the first respondent, by his proceedings dated 19.10.2010. That apart, the first respondent is also reviewing the suspension on a regular basis and considering the seriousness of the allegations made against the petitioner, the first respondent thought it fit to continue with the suspension of the petitioner. The learned counsel further submitted that considering the seriousness of the charge, the petitioner will be kept under suspension till the disposal of the criminal case and this Writ Petition is liable to be dismissed.

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

7. This Court, while passing the order in WP.No.11419 of 2011 dated 29.04.2011, had specifically given liberty to the petitioner to submit his representation for revocation of the suspension after the final report is filed in the criminal case. Therefore, after filing of final report, the petitioner has made a representation and it was not considered and the petitioner approached this Court by way of WP.No.31554 of 2014 and this Court directed the first respondent to pass appropriate orders on the representation made by the petitioner within a period of four weeks. This order was also not complied with by the first respondent. As a result of the same, the petitioner is now continuing with the suspension for the last ten years. The further complaint of the petitioner is that he has not been paid the subsistence allowance till date.

8. At this juncture, the judgments cited by the learned counsel for the petitioner will have to be taken into consideration. It is now well settled that delinquent employee cannot be kept under prolonged suspension and the same requires to be reviewed from time to time. It is nearly ten years since the suspension order was passed. Insofar as the criminal case is concerned, only the Trial has commenced and only one witness has been examined till now. The petitioner is also not receiving any subsistence allowance, which is mandatory and it should be paid to the petitioner.

9. In view of the above, there shall be a direction to the first respondent to pass appropriate orders within a period of four (4) weeks from the date of receipt of a copy of this order, revoking the suspension of the petitioner and post the

petitioner in a non sensitive post. If there is any claim, the petitioner can submit a representation making his claim for subsistence allowance, which is due and payable to him and the first respondent shall consider the same and settle the arrears of subsistence allowance to the petitioner as per Rules. There shall also be a direction to the learned Chief Judicial Magistrate, Special Court, Dharmapuri, to dispose of C.C.No.10 of 2011, within a period of three (3) months from the date of receipt of a copy of this order. The Trial shall be conducted in the criminal case on a day-to-day basis.

10. This Writ Petition is disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

KMI

To

1. The Block Development Officer,
Morappur Panchayat Union,
Pappireddy Patti Taluk,
Dharmapuri District.

2. The President,
Kethureddipatti Village,
Morappur Panchayat Union,
Pappireddy Patti Taluk,
Dharmapuri District.

+1cc to Mr.G.B.Rajesh, Advocate, S.R.No.17594

+1cc to Mr.A.Ilaya Perumal, Advocate, S.R.No.17330

PVS (CO)
KKV/19/05/2020

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