

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **07.08.2020**

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.10377 of 2010

A.Marimuthu

... Petitioner

vs.

1. State of Tamil Nadu,
Represented by The Commissioner,
The Tamil Nadu Hindu Religious and Charitable
Endowments Department,
Chennai – 600 034.
 2. The Joint Commissioner,
The Tamil Nadu Hindu Religious and Charitable
Endowments Department,
Salem – 1.
 3. The Assistant Commissioner cum Executive Officer,
Arulmigu Arthanaareeswarar Thirukovil,
Tiruchencode Post,
Namakkal District.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the Respondents to revoke the order of suspension vide Order No.81/2017/A2 dated 25.04.2017 passed by the 3rd respondent by considering the Petitioner's representations dated 22.06.2017, 12.08.2017 and 19.12.2019.

For Petitioner : Mr.V.Jai Bharath
for Mr.B.Mohan

For 1st Respondent : Mr.V.Kadhirvelu,
Special Government Pleader

For Respondents 2 & 3 : Mr.P.S.Sivashanmuga Sundaram,
Special Government Pleader

ORDER

Petitioner has come up with the present Writ Petition seeking a direction to the Respondents to revoke the suspension order passed by the 3rd Respondent vide No.81/2017/A2, dated 25.04.2017, by considering his representations dated 22.06.2017, 12.08.2017 and 19.12.2019.

2. According to the Petitioner, he was appointed as Ochar in the 3rd Respondent/Temple in the year 1985. On 25.04.2017, the Petitioner was placed under suspension from service vide Order No.81/2017/A2 passed by the 3rd Respondent, on the ground that, a Criminal case vide Crime No.300/2017 dated 24.04.2017 is pending against him. Subsequently, a Charge Memo containing six charges vide No.81/2017/A2, dated 01.06.2017, was issued against the Petitioner. Denying all the charges, the Petitioner submitted his reply dated 22.06.2017 to the same. Thereafter, the Petitioner submitted representations dated 22.06.2017 and 12.08.2017 to the 3rd Respondent seeking to disburse Subsistence Allowance. However, there was no response. Thereafter, the Petitioner submitted a representation

dated 19.12.2019 to all the Respondents, seeking to revoke the order of suspension dated 25.04.2017 and to reinstate him in service. As no orders were passed by the Respondents, the Petitioner is before this Court with the present Writ Petition.

3. Heard the learned counsel for the parties and perused the material records available on record.

4. With respect to prolonged suspension, the Apex Court has rendered a decision in **Ajay Kumar Choudhary vs. Union of India, (2015 (3) CTC 119)**, wherein, it has held that, in case there is no initiation of departmental proceedings for a long time, the delinquent employee should be reinstated in a non-sensitive post, if the delay was not on account of him/her.

5. In the present case on hand, though the Petitioner has given his explanation to the Charge Memo vide No.81/2017/A2, dated 01.06.2017 on 22.06.2017 itself, no Enquiry Officer has been appointed to inquire into the charges framed against the Petitioner and that, he is kept under prolonged suspension. Also, it appears that Subsistence Allowance has not been disbursed to him so far.

6. In such view of the matter, without going into the merits of the case, this Court directs the Respondents herein to consider the **Petitioner's**

representation dated 19.12.2019 in accordance with law, and pass appropriate orders, after affording him an opportunity of hearing, **within a period of four months from the date of receipt of a copy of this order.**

With the above direction, this Writ Petition stands disposed of.

No costs.

07.08.2020

Index : Yes/No

(aeb/jas)

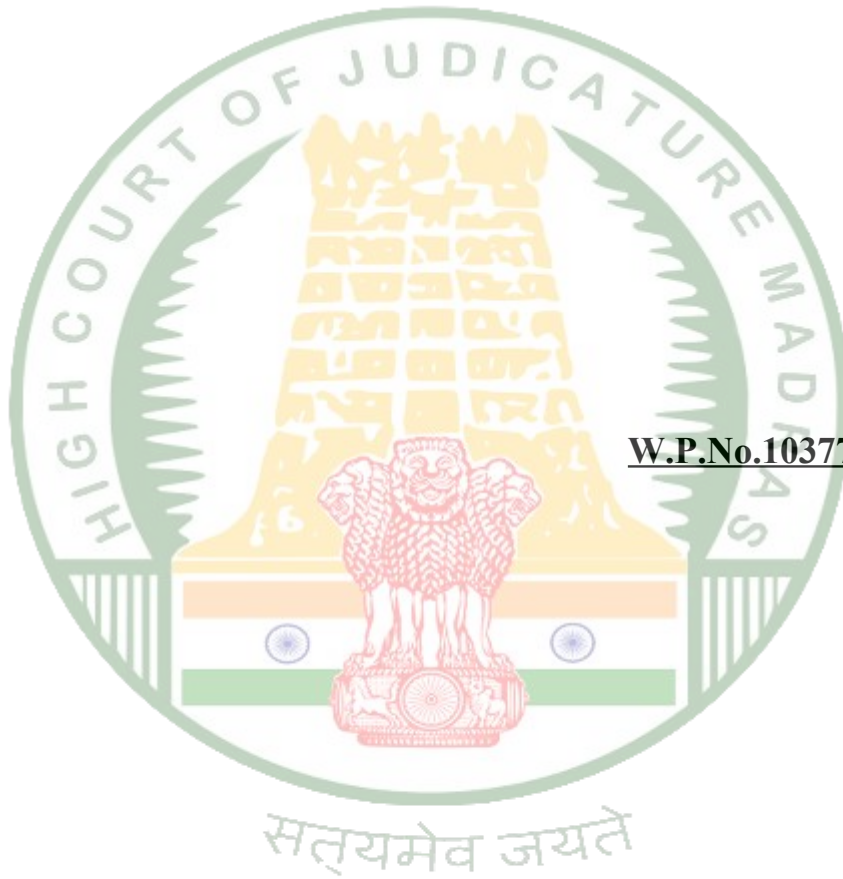
To:

1. The Commissioner,
State of Tamil Nadu,
The Tamil Nadu Hindu Religious and Charitable
Endowments Department,
Chennai – 600 034.
2. The Joint Commissioner,
The Tamil Nadu Hindu Religious and Charitable
Endowments Department, Salem – 1.
3. The Assistant Commissioner cum Executive Officer,
Arulmigu Arthanaareeswarar Thirukovil,
Tiruchencode Post,
Namakkal District.

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S.VAIDYANATHAN,J.

(aeb/jas)



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