

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.7935 of 2015

J.Saminathan

... Petitioner

Vs.

1. The District Collector,
Collectorate Office,
Thiruvannamalai District.

2. The Thasildhar,
Polur Taluk,
Thiruvannamalai District.

3. Revenue Divisional Officer,
Polur Taluk,
Thiruvannamalai District.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records from the file of the 2nd respondent and quash the impugned order A3/2004/2014, dated 19.01.2015.

For petitioner : Mr.M.Ravi
For respondents : Mr.S.Thangavel
Spl. Govt. Pleader

O R D E R

This writ petition has been filed by the Petitioner to quash the impugned order A3/2004/2014, dated 19.01.2015 issued by the 2nd respondent.

2. It is the case of the petitioner that he entered into service as Village Administrative Officer in Keelkanavaayur Village, Polur Taluk, Thiruvannamalai District. Whiles, owing to alleged charges against him for bribe, criminal case was registered and he was remanded to judicial custody and subsequently, he was placed under suspension on 28.09.2014 vide ref. No.A3/12004/2014. Thereafter, he was released from judicial custody on 01.10.2014. He submitted a representation dated 27.10.2014 to review the order of suspension. As the request for review has not been considered, he filed writ petition to consider the aforesaid representation and this Court

by its order dated 12.11.2014 issued directions to the 2nd respondent to dispose of the petitioner's representation, within a stipulated time frame. That being so, on 19.01.2015, the respondent passed the impugned order. Challenging the said impugned order, this writ petition has been filed.

3. Learned counsel for the petitioner submits that even though directions issued by this Court to consider the representation of the petitioner, the respondents have rejected the claim of the petitioner and moreso, even after lapse of seven years, the order of suspension has not been revoked. He further relied on the decision of the Hon'ble Supreme Court in the case of Ajay Kumar Choudhary vs Union Of India (2015 (7) SCC 291) and, accordingly prays for appropriate directions.

4. Per contra, learned Special Government Pleader appearing for the respondents reiterating the counter contentions made in the counter affidavit submits that due to pendency of criminal case against the petitioner, the order of suspension has not been revoked and as per the directions of this Court, the representation of the petitioner was considered and rejected by the respondents by way of a reasoned order. Therefore, it is submitted that no interference is called for with the order passed by the respondents and prays for dismissal of this writ petition.

5. This Court bestowed its best attention to contentions advanced by the learned counsel on either side and perused the materials available on record.

6. Admittedly, a criminal case was registered against the petitioner and subsequently, order of suspension was issued to him. It is not in dispute that the 2nd respondent has issued the rejection order in view of the pendency of the criminal case. However, reliance has been placed by the petitioner on the decision of the Hon'ble Apex Court in Ajay Kumar Choudhary's case (supra), wherein, the Supreme Court has held as under :-

14. We, therefore, direct that the currency of a Suspension Order should not extend beyond three months if within this period the Memorandum of Charges/Chargesheet is not served on the delinquent officer/employee; if the Memorandum of Charges/Chargesheet is served a reasoned order must be passed for the extension of the suspension.

7. It is not in dispute that the suspension of the petitioner has been in continuance for more than seven years due to the pendency of the criminal case. Though the decision in Ajay Kumar Choudhary's case (supra), is pressed into service by the learned counsel for the petitioner, however, it is to be

pointed out that the above order of the Hon'ble Supreme Court pertains only to charges/chargesheet which are on account of departmental proceedings and not on account of criminal trial as the departmental proceedings and criminal trial stand on different footings. In such view of the matter, this Court is of the considered view that the impugned order passed by the respondents does not suffer the vice of any illegality or in disobedience of the order of the Hon'ble Supreme Court in Ajay Kumar Choudhary's case (supra). However, considering the fact that the criminal trial takes longer time to complete and the fact that a period of seven years have already passed since the order of suspension, this Court is of the view that the petitioner may be directed to submit a fresh representation, which can be considered by the respondents within a particular time frame.

8. Accordingly, while the present petition is dismissed, however, the petitioner is directed to submit a fresh representation within a period of two weeks from the date of receipt of a copy of this order and on receipt of the said representation, the respondents shall consider the same and pass orders thereon, on merits and in accordance with law, as expeditiously as possible. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Collectorate Office,
Thiruvannamalai District.

2. The Thasildhar,
Polur Taluk,
Thiruvannamalai District.

3. The Revenue Divisional Officer,
Polur Taluk,
Thiruvannamalai District.

+1cc to the Government Pleader in SR.NO..40384

W.P.No.7935 of 2015

(CO)

rv(04/02/2021)