

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2020

CORAM

THE HONOURABLE THIRU JUSTICE V. PARTHIBAN

W.P.No.9402 of 2020
and
W.M.P.No.11490 of 2020

M.Moorthy

...Petitioner

Vs.

1.The District Collector,
Salem District, Salem,
Tamil Nadu.

2.The Personal Assistant
(Development) to the Collector,
Salem District, Salem,
Tamil Nadu.

3.The Block Development Officer,
Village Panchayat,
Mecheri Panchayat,
Salem District, Tamil Nadu.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the first respondent to revoke the order of suspension of the petitioner dated 10.08.2017 bearing reference No.Na.Ka.No.21231/2017/T3 as per the direction issued by the Principal Secretary to Government, Personnel and Administrative Reforms (N) Department dated 23.07.2015 in pursuant to the judgment of the Hon'ble Supreme Court of India made in S.L.P (C) No.31761 of 2013 dated 16.02.2015 (in the case of Ajay Kumar Choudhary Vs. Union of India and another) within stipulated time.

For Petitioner : Mr.P.R.Thiruneelakandan

For Respondents : Mr.Digvijay Pandian
Additional Government Pleader
for R1 and R2
Mr.P.V.Selvakumar for R3

ORDER

The matter is taken up through web hearing.

2.This writ petition is filed with the following prayer;

"to direct the first respondent to revoke the order of suspension of the petitioner dated 10.08.2017 bearing reference No.Na.Ka.No.21231/2017/T3 as per the direction issued by the Principal Secretary to Government, Personnel and Administrative Reforms (N) Department dated 23.07.2015 in pursuant to the judgment of the Hon'ble Supreme Court of India made in S.L.P (C) No.31761 of 2013 dated 16.02.2015 (in the case of Ajay Kumar Choudhary Vs. Union of India and another) within stipulated time."

3.The petitioner was working as Panchayat Clerck and he suffered an order of transfer in 2017 which was subject matter of writ petition. Ultimately the matter went up to learned Division Bench which according to the order dated 02.08.2017 directed the respondent to reinstate into service till 3 years in the same locality on 02.08.2017. In the meanwhile the petitioner was asked to give explanation for the charge....

4.According to the petitioner, the first respondent did not comply with the order passed by the learned Division Bench and there was also a false FIR registered against him in Crime No.14 of 2017 on the file of District Main Branch Salem, petitioner abused to have challenged FIR and this Court has stayed the FIR on 31.01.2018.

5.While so, the petitioner was placed under suspension vide suspension order dated 10.08.2017 and later was charge sheeted on 27.08.2018. Later petitioner approached this Court vide W.P.No.15594 of 2018..... in pursuance of the charge memorandum and the same appears to be pending.

6.As far as this writ petition is concerned, the petitioner seeks for a direction to the authorities to revoke the suspension order on the basis of settled legal principles on the matter of suspension. In addition what the petitioner seeking is a prolonged suspension what the authorities....

7.This Court is unable to appreciate how the petitioner can be allowed to seek such a prayer without allowing the order..... A writ of mandamus in substance questioning the suspension order is the word of very legal sense and legal principles on the issue of suspension cannot be applied across the Board regardless the factual matrix of the individual case.

Unless the suspension order is put to challenge and grounds raised in support of the challenge, the petitioner cannot seek mere a direction from the authorities to revoke suspension.

8.The prayer as it is completely misconceived unacceptable and such presumption on the part of the petitioner is also misplaced and no such direction can be issued to the authority to revoke the order of suspension without any challenge is same...

9.In the result, the writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

- 1.The District Collector,
Salem District, Salem,
Tamil Nadu.
- 2.The Personal Assistant
(Development) to the Collector,
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- 3.The Block Development Officer,
Village Panchayat,
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Salem District, Tamil Nadu.

+lcc to the Government pleader Sr.25039

W.P.No.9402 of 2020

mr[col]
srg 03/08/2020