



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 08.01.2020
CORAM
THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH
W.P No.19432 of 2019
and W.M.P No.18926 of 2019

G.Vadivel

Petitioner

vs.

The District Collector,
Kanchipuram District,
Kanchipuram.

Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records to the impugned suspension order dated 07.06.2018 passed in RC. No. 4433/2018/ PA2 on the file of the respondent herein, quash the same.

For Petitioner : Mr.K.Govi Ganesan

For Respondent : Mr.P.S.Sivashanmuga Sundaram
Special Government Pleader

O R D E R

This writ petition has been filed challenging the suspension order passed by the respondent on 07.06.2018.

2.The case of the petitioner is that he was working as a Panchayat Secretary at Pudupakkam Panchayat. A criminal case came to be registered by the Vigilance & Anti Corruption Department in Crime No.07 of 2018 for offence under Prevention of Corruption Act, 1988 against one Boopathy and the petitioner herein. The petitioner was arrested and remanded to judicial custody and therefore, a suspension order came to be issued by the respondent.

3.The grievance of the petitioner is that the suspension continues till date and A1 who was also suspended, approached this Court and by virtue of the order passed by this Court, he was reinstated and was posted in a non-sensitive post. The petitioner is also seeking for a similar relief in his case also.

4.Mr.K.Govi Ganesan, learned counsel appearing on behalf of the petitioner submitted that suspension order was passed on 07.06.2018 and till date, there is no progress in the criminal



case and no charge memo has been issued against the petitioner and therefore, the petitioner cannot be kept under prolonged suspension. The learned counsel, in order to substantiate his submissions relied upon an order passed by this Court in W.P.No.743 of 2019, dated 18.12.2019 and prayed before this Court to revoke the suspension order and direct the respondent to reinstate the petitioner into service.

5.Mr.P.S.Sivashanmuga Sundaram, learned Special Government Pleader appearing on behalf of the respondent submitted that the petitioner was caught red handed in a trap that was laid and the petitioner was arrested and remanded to judicial custody. The learned counsel submitted that the petitioner was kept under suspension pending grave criminal charges. The learned counsel further submitted that the petitioner can make a representation to the respondent seeking for the revocation of suspension and same will be considered by the respondent in accordance with law.

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

7.It is seen from records that apart from the petitioner, one more person named Boopathy who was the Personal Assistant to the Block Development Officer, Thiruporur, was also arrested in this case and he was also kept under suspension. He challenged the order of the suspension on the ground of prolonged suspension and filed W.P.No.31259 of 2018 before this Court. This Court by an order dated 28.11.2018, disposed of the writ petition by directing the respondent to revoke the order of suspension and to place the petitioner therein in any non-sensitive post. The petitioner who is also similarly placed is seeking for similar relief.

8.That apart, the petitioner has also questioned the prolonged suspension without issuance of any charge memo and without passing any detailed order to justify the suspension beyond the period of three months. In order to substantiate his submission, the petitioner has also relied upon the earlier order passed by this Court in B.Sundarprabu, referred supra. In this order, this Court had considered the entire law on the subject and has held that, even in a case involving corruption, an employee cannot be suspended for an indefinite period. This Court further observed that subsistence allowance cannot be paid continuously without extracting work from the employee. This Court directed the reinstatement of the petitioner therein in any non-sensitive post.

9.In view of the above discussion, this Court does not find any justification to continue with the suspension of the petitioner and more particularly due to the fact that the other



accused person had already been reinstated in a non-sensitive post pursuant to the orders passed by this Court.

10. In view of the same, the respondent is directed to revoke the order of suspension against the petitioner and post the petitioner in any non-sensitive post by imposing appropriate terms and conditions. This exercise shall be completed within a period of four weeks from the date of receipt of copy of this order.

11. This writ petition is disposed of with the above directions. Consequently, connected miscellaneous petition is closed. No Costs.

Sd/-
Asst. Registrar (CS III)

/true copy/
Sub Asst. Registrar

ssr

To

1. The District Collector,
Kanchipuram District,
Kanchipuram.

2. The Public Prosecutor,
High Court, Madras.

+1 cc to the Government Pleader sr 2229
+1 cc to Mr.K.Govi Ganesan Advocate sr2015

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