

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.23594 of 2019

K.Chinnadurai

Petitioner

vs.

1. The Principal Secretary to Government,
Department of Housing and Urban Development,
Fort St. George,
Chennai - 09.
2. The Commissioner of Town and Country Planning,
4th Floor, Chengalvarayan Building,
No.807, Anna Salai,
Chennai - 600 002.
3. Member Secretary,
Salem Local Planning Authority,
Department of Town and Country Planning,
Salem.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records in pursuant to the impugned order passed by the 2nd respondent in proceedings Roc.No.9835/2018/K2 dated 21.05.2018 & quash the same and consequently direct the 2nd respondent to reinstate the petitioner in service with all consequential service and monetary benefits.

For Petitioner : Ms.Swadhi Subramaniam

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

O R D E R

This writ petition has been filed challenging the order of suspension passed by the 2nd respondent, dated 21.05.2018 and pass consequential order directing the 2nd respondent to reinstate the petitioner into service.

2.The case of the petitioner is that he was working as a Supervisor/Draughtsman Grade-II in the Salem Local Planning Authority Department. A trap case was arranged based on the complaint given against the petitioner on the ground that he demanded money from the defacto complainant in order to regularize a plot. An FIR came to be registered in Crime No.10 of 2018 by the Vigilance and Anti-Corruption Police. The petitioner was arrested and remanded to judicial custody. Consequently, the 2nd respondent had passed the suspension order on 21.05.2018 under Rule 17(e) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules 1955. Since, the petitioner is kept on prolonged suspension, the present writ petition has been filed challenging the very suspension order.

3.The learned counsel for the petitioner submitted that the suspension order was passed on 21.05.2018 and the petitioner has been kept under prolonged suspension for more than one and half years. The learned counsel, by relying upon the judgment of the Hon'ble Supreme Court of India in the case of Ajay Kumar Choudhary vs. Union of India, submitted that the petitioner has been kept under prolonged suspension without issuing a charge memo and without passing any order, extending the period of suspension. The learned counsel therefore, submitted that the suspension order requires interference and the 2nd respondent must be directed to reinstate the petitioner into service.

4.The 2nd and 3rd respondents have filed detailed counter affidavit in this case and they have opposed the writ petition. It has been stated in the counter affidavit that there was a review of the suspension order by the 2nd respondent on 30.09.2019 and it was decided to extend the suspension and sanction was also accorded to the DV & AC to file the final report against the petitioner.

5.Mr.P.S.Sivashanmuga Sundaram, learned Special Government Pleader appearing on behalf of the respondents submitted that the petitioner was caught red handed in a trap case and since, the allegations are very serious, there is no requirement for interfering with the suspension order. The learned counsel submitted that the suspension is reviewed periodically and as and when the petitioner makes any representation, the same will be considered by the respondents. The learned counsel, therefore, sought for the dismissal of the writ petition.

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

7.This Court had an occasion to consider a similar issue in W.P.No.743 of 2019, dated 18.12.2019. This Court had referred to

all the earlier judgments and it was held that even in cases involving corruption, an employee cannot be suspended for an indefinite period and subsistence allowance cannot be paid for prolonged period without extracting work from the delinquent employee.

8. In the present case, the suspension order was passed on 21.05.2018 and in the counter affidavit, it is stated that it is being reviewed from time to time and last such review took place on 30.09.2019. It is also seen that sanction has already been accorded to DV & AC to file the final report in the criminal case.

9. In view of the above, the petitioner is directed to make a representation to the 2nd respondent seeking for revocation of suspension. The 2nd respondent on receipt of the representation is directed to consider the same, taking into consideration the judgment that has been referred supra and appropriate orders shall be passed to accommodate the petitioner in some non-sensitive post so that the petitioner is paid money after extracting work from him. This order shall be passed within a period of four weeks from the date of receipt of copy of this order.

10. There shall also be a direction to the DV & AC, Salem to file a final report within a period of three weeks from the date of receipt of copy of this order before the concerned Court and the Special Court shall proceed further and complete the case within a period of six months thereafter.

11. This writ petition is disposed of with the above directions. No Costs.

s/d-

Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

To

1. The Principal Secretary to Government,
Department of Housing and Urban Development,
Fort St. George,
Chennai - 09.

2. The Commissioner of Town and Country Planning,
4th Floor, Chengalvarayan Building,
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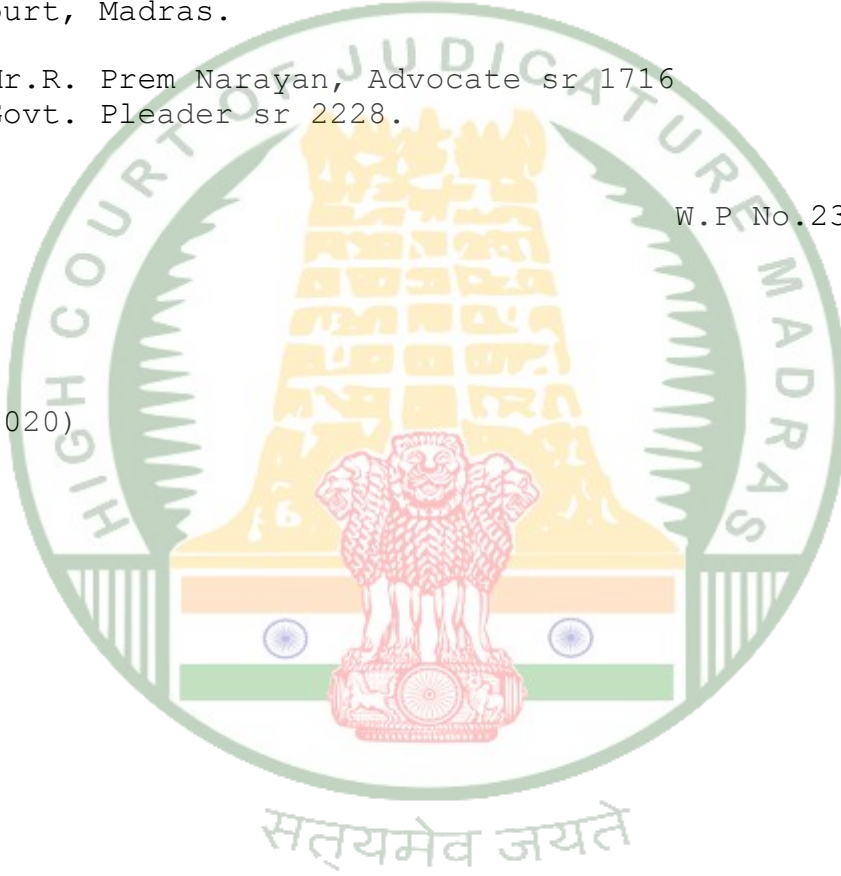
3. The Member Secretary,
Salem Local Planning Authority,
Department of Town and Country Planning,
Salem.

4. The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.R. Prem Narayan, Advocate sr 1716
+1 CC to Govt. Pleader sr 2228.

W.P No.23594 of 2019

JP (CO)
SP(04/02/2020)



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