



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.2569 of 2017 and
WMP.Nos.2531 & 2532 of 2017

D. Kavitha

..Petitioner

Vs

1.The District Collector,
Dharmapuri District.

2.The Inspector of Police,
Vigilance and Anti-Corruption,
Dharmapuri.

..Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of certiorarified Mandamus to call for the records relating to the impugned order dated 23.07.2016 made in ROC.11230/16/A2 and the consequential extension order dated 15.12.2016 passed by the first respondent and to quash the same, consequently re-instate the petitioner in service with all monetary benefits.

For Petitioner : Mr.C. Prabakaran

For Respondents : Mr.J.Ramesh
Additional Governemnt Pleader

ORDER

This writ petition has been filed by the petitioner challenging the impugned order dated 23.07.2016 made in ROC.11230/2016/A2 and the consequential extension order dated 15.12.2016 passed by the first respondent and for a consequential direction to the first respondent to re-instate her in service with all monetary benefits.

2.According to the petitioner, she was appointed as Village Administrative Officer by way of Tamil Nadu Public Service Commission (TNPSC) by the proceedings of the Revenue Divisional Office, Dharmapuri, on 08.04.2012. Subsequently, she was appointed as Revenue Assistant by the proceedings of the first respondent on 04.01.2013 in Na.Ka.No.30919/2012/A5 at Pennagaram, Dharmapuri District. Thereafter, she was transferred to Revenue Inspector, Palayam by the proceedings of the District Revenue Officer, Dharmapuri on 13.03.2015 in Na.Ka. NO.2896/2015/A3.



3. It is the further case of the petitioner that one Munusamy lodged a complaint before the second respondent police on 21.07.2016 against the petitioner herein, Senthil, who is working as Revenue Assistant and Revenue Tahsildar of Nallampalli by name Miller, demanding money for a sum of Rs.20,000/- for disbursement of the benefits of a sum of Rs.1,02,500/- to the complainant. Based on the complaint preferred by one Munusamy against the petitioner and two others, the second respondent police have registered an FIR in Crime No.3/AC/2016 for the offence under Section 7 and 13(1) (d) of the Prevention of Corruption Act. During the course of investigation, the second respondent police have seized a sum of Rs.10,000/- from the office of the Tahsildar by name Miller at his chamber. It is submitted that in the said trap the second respondent police implicated the petitioner as if she has also demanded money. But the fact remains that money was recovered only from the said Tahsildar at his Office Chamber. However, merely because her name was implicated by the second respondent police, the first respondent issued the impugned order in his proceedings in ROC.No.11230/2016/A2, dated 23.07.2016 under Rule 17(e)(1)(ii) of Tamil Nadu Civil Services (Discipline and Appeal) Rules with immediate effect suspending her from service. Thereafter, the petitioner made a representation to the first respondent on 05.09.2016, seeking to revoke the order of suspension and to reinstate her without prejudice to the right of the disciplinary proceedings, which was also pending.

4. According to the petitioner, the impugned order passed by the respondent is without considering the decision rendered by the Hon'ble Supreme Court in the case of Ajaykumar Chowdry v. Union of India, reported in 2015 (2) Scales 432, represented by its Secretary and Anr., wherein the Hon'ble Supreme Court held that the suspension order should not be extended beyond the period of three months by an order dated 11.11.2016. Therefore, the said order is liable to be set aside.

5. Further, learned counsel for the respondent submitted that the order has been passed against the Delinquent namely Kavitha (Revenue Assistant), Senthil (Assistant) had filed writ petition in W.P.No.1822 of 2017 and Miller (Tahsildar) had filed writ petition in W.P.No.28518 of 2016 and this Court had disposed both the aforesaid writ petitions by directing the respondents to reinstate the petitioner forthwith. Based on the order passed by this Court, the petitioner has approached the first respondent through a representation dated 12.12.2016 to revoke the order of suspension. Wherein the first respondent passed an order dated 15.12.2016 in R.O.C.No.11230/2016/A2, by extending the period of her suspension till the disposal of the Criminal Case in Crime No.3/AC/16, pending on the file of the second respondent. According to the petitioner, when there is no specific mention



about her in the said complaint and in the FIR, the order of suspension passed against her is totally against the principles of natural justice. Hence, the petitioner has come forward challenging the impugned order and to re-instate her in service with all monetary benefits.

6. When the matter was taken up for consideration, the learned counsel for the petitioner has relied upon the judgment of this Court in the case of Ajay Kumar Choudhry v. Union of India reported in (2015 (2) Scales 432), submitted that the currency of suspension order should not be extended beyond three months, if within this period, the Memorandum of Charges/Charge sheet is not served on the Delinquent Official and if charge memo/charge sheet is served, a reasoned order must be passed for extension of the suspension. Thus, the learned counsel for the petitioner sought for quashing the impugned order and for a direction to the respondents to permit the petitioner to join duty.

7. Per contra, learned Additional Government Pleader, who has taken notice on behalf of the respondents, vehemently opposed to entertain the prayer in the writ petition stating that a criminal case against the petitioner is under investigation and hence, the order of suspension cannot be revoked. Thus, he sought for dismissal of the writ petition.

8. Having regard to the submissions made on either side, I have carefully gone through the entire materials available on record.

9. I am of the view that the issue involved in this case has to be decided only based on the decision of the Hon'ble Supreme Court in the case of Ajay Kumar Choudhry v. Union of India, reported in (2015 (2) Scales 432), wherein it has been held that the currency of suspension order should not be extended beyond three months, if within this period, the Memo of charges/charge sheet is not served on the delinquent official and if charge memo/charge sheet is served, a reasoned order must be passed for extension of the suspension. Subsequently, the Government of Tamil Nadu has also issued instructions in Letter No.13519/N/2016-1, Personnel and Administrative (Reforms) Department, dated 23.07.2015, to all Principal Secretaries to Government, Department of Secretariat and Head of Departments to follow the directions of the Hon'ble Supreme Court on the limitation period of suspension in letter and spirit.

10. Even in the instant case, the facts of the present case would show that the respondents have not passed any reasoned order for extension of suspension in respect of the petitioner herein. The petitioner cannot be kept under prolonged suspension. Further, in the case of Ajay Kumar Choudhry v. Union of India, reported in (2015 (2) Scales



432), a Division Bench of this Court has held that prolonged suspension is unreasonable and without any justification. Following the aforesaid decision, this Court is of the considered opinion that the petitioner herein is entitled to the relief sought for in this writ petition and the impugned order is liable to be quashed.

11. Accordingly, the writ petition is allowed and the impugned order passed by the first respondent in ROC.11230/16/A2, dated 23.07.2016 is hereby quashed. The respondents are directed to re-instate the petitioner in any non-sensitive post at a far away place, forthwith. No costs. Consequently, connected W.M.P.Nos.2531 and 2532 of 2017 are closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

msm

Copy to:

The Secretary,
Revenue Department,
Secretariat, Chennai - 600 009.

To

- 1.The District Collector,
Dharmapuri District.
- 2.The Inspector of Police,
Vigilance and Anti-Corruption,
Dharmapuri.

+1cc to Mr.C. Prabakaran, Advocate SR.No.16820

+1cc to Government Pleader SR.No.17757

+1cc to Government Pleader SR.No.13122

W.P.No.2569 of 2017

BP (CO)
GMY (14/07/2020)