

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2020

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P No.35568 of 2019 and
W.M.P.Nos.36434 & 36437 of 2019

P.Thamizharasi

... Petitioner

Vs.

The Director of Local Fund Audit,
Nandanam,
Chennai 600035.

... 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 on the file of the respondent in RC No.16212/O Na.1/2017 dated 18.09.2017 and quash the same and direct the respondents to reinstate the petitioner in service with all service and monetary benefits forthwith.

For Petitioner : Mr.S.Selvathirumurugan

For Respondent : Mr.A.Zakir Hussain
Government Advocate

ORDER

This Writ Petition has been filed challenging the suspension order passed by the respondent dated 18.09.2017.

2.The case of the petitioner is that she was selected for appointment to the post of Assistant Inspector in the Local Fund Audit Department in the year 2001. Thereafter, she was promoted as Deputy Inspector in the year 2011 and Inspector in the year 2013.

3.A criminal case came to be filed against the petitioner in Crime No.20 of 2017 on 13.09.2017 by the District Crime Branch, Salem, on the ground that the petitioner had collected a sum of Rs.1,50,000/- (Rupees one lakh fifty thousand only) from the defacto complainant by promising him to get a Government job and thereafter, he was cheated. The petitioner was arrested and remanded to Judicial Custody and thereafter, an order for suspension came to be passed by the respondent on 18.09.2017 with effect from 14.09.2017, under Rule 17(e) of the Tamil Nadu Civil Services (Disciplinary and Appeal) Rules

which has now become the subject matter of challenge in the present Writ Petition, on the ground that the petitioner has been kept under prolonged suspension and there is absolutely no progress in the criminal case and not even a charge memo has been issued by the respondent.

4.Mr.S.Selvathirumurugan , learned counsel appearing on behalf of the petitioner submitted that the petitioner has been kept under suspension for more than two years and no orders have been passed for extending the suspension beyond three months and no charge memo has been issued till date. The learned counsel submitted that even in the criminal case, there is absolutely no progress in the investigation and till date no final report has been filed. The learned counsel by placing reliance on the Judgment of the Hon'ble Supreme Court in the case of "Ajay Kumar Choudhary Versus Union of India, reported in (2015) 7 SCC 291" and the judgment of the Hon'ble Supreme Court in the case of State of Tamil Nadu Versus Pramod Kumar, submitted that the suspension order requires interference. The learned counsel further submitted that the petitioner can be reinstated and can be allotted work in any non-sensitive post till the completion of the proceedings.

5.Per contra, M/s.A.Zakir Hussain, learned counsel appearing on behalf of the respondent submitted that the petitioner was indulged in collecting money on the false promise of getting a Government job. The learned counsel submitted that the petitioner was arrested and remanded to judicial custody and the nature of allegation that has been made against the petitioner is very serious. That apart, the learned counsel placed reliance upon the Government letter dated 11.05.2018, wherein it has been specifically stated that the suspension should not be revoked in cases, where the delinquent employee is involved in a criminal case and the period of suspension that has been fixed, will not apply in such cases. The learned counsel submitted that there is absolutely no ground to interfere with the suspension order and if required, the respondent will pass appropriate orders, justifying the continuation of the suspension against the petitioner, as and when any representation is made in that regard.

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

7.The only issue that requires consideration in this case is as to whether the suspension order passed by the respondent requires interference, only on the ground that the petitioner has been kept under prolonged suspension for more than two years without issuing a charge memo and without there being any development in the criminal case, wherein not even a final report has been filed till date. It is true that the nature of allegation that has been made against the petitioner is quite serious and it is stated that the petitioner has

received money for a sum of Rs.1,50,000/- (Rupees one lakh fifty thousand only) on the false promise of getting a Government job.

8.This Court had an occasion to consider the entire law on this issue in the case of "S.Raju Versus The Chairman and another in W.P.No.11967 of 2018, dated 25.07.2019". The relevant portions in the order is extracted here under:-

5.According to the learned counsel, this Court, in a number of decisions, has followed the law declared by the Hon'ble Supreme Court in Ajay Kumar Choudhary case and set aside the suspension orders and directed the authorities concerned to reinstate the petitioners in the respective writ petitions and post them in nonsensitive posts. Many of the cases, which were allowed by this Court also, pertaining to the alleged demand of illegal gratification by the petitioner therein. In support of his contention, the learned counsel would rely on the following decisions:

(i) In Ajay Kumar Choudhary V. Union of India through its Secretary and another reported in (2015) 7 Supreme Court Cases 291, he would draw the attention of this Court at paragraph 21, which is extracted hereunder:

"21.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. As in the case in hand, the Government is free to transfer the concerned person to any Department in any of its offices within or outside the State so as to sever any local or personal contact that he may have and which he may misuse for obstructing the investigation against him. The Government may also prohibit him from contacting any person, or handling records and documents till the stage of his having to prepare his defence. We think this will adequately safeguard the universally recognized principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognize that previous Constitution Benches have been reluctant to quash proceedings on the grounds of delay, and to set time limits to their duration. However, the imposition of a limit on the period of suspension has not been

discussed in prior case law, and would not be contrary to the interests of justice. Furthermore, the direction of the Central Vigilance Commission that pending a criminal investigation departmental proceedings are to be held in abeyance stands superseded in view of the stand adopted by us."

(ii) In K.Selvamani V. The State of Tamil Nadu, rep. By the Principal Secretary to Government, Home (Pol-2) Department, Fort St. George, Chennai and another reported in 2017 (1) CTC 795, at paragraph 6 to 8, it has been held by this Court as follows:

"6.I am of the opinion that the issue involved in this case has to be decided only based on the decision of the Hon'ble Supreme Court in 2015 (2) SCALES 432 [Ajay Kumar Choudhry Vs. Union of India], wherein it has been held 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/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, P & AR (Per.N) Dept, dated 23.07.2015, to all Principal Secretaries to Government, Department of Secretariat and Head of Departments to follow the directions of the Hon'b'le Supreme Court on the limitation period of suspension in letter and spirit.

7.Even in the instant case, the facts of the case could 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 Ambigapathy, P.S. Vs. The Director of Public Health & Preventive Medicine, reported in 1991 Writ L.R. 273, a Division Bench of this Court has held that the prolonged suspension is unreasonable and without any justification. Following the above said decision, I am of the opinion, the petitioner herein is entitled to the relief sought for in the writ petition and the impugned order is liable to be quashed.

8.Accordingly, the writ petition is allowed and the impugned order is quashed. The respondents are directed to reinstate the petitioner in any non-sensitive post at a far away place forthwith. Consequently, connected Miscellaneous Petition is closed. No costs."

(iii) In Civil Appeal No.8427-8428 of 2018 arising out of S.L.P.(Civil) No.12112-12113 of 2017 dated 21st August, 2018 [between State of Tamil Nadu rep. By Secretary to Government (Home) V. Promod Kumar IPS & another] the Hon'ble Supreme Court in paragraph No.23, has observed as under:

"23.This Court in Ajay Kumar Choudhary v. Union of India protracted suspension and held that suspension must necessarily be for a short duration. On the basis of the material on record, we are convinced that no useful purpose would be served by continuing the first Respondent under suspension any longer and that his reinstatement would not be a threat to a fair trial. We reiterate the observation of the High Court that the Appellant State has the liberty to appoint the first Respondent in a non sensitive post."

(iv) In W.P.No.28454 of 2017 dated 01.04.2019 [between T.Soundararajan V. The District Revenue Officer, Villupuram and others], this Court in paragraph 6 has observed as follows:

"6.In the light of the categorical pronouncement of the Supreme Court as aforesaid, the order of prolonged suspension dated 30.03.2017, without even charge sheet being filed till date, is quashed and the petitioner is directed to be reinstated forthwith."

(v) In W.P.No.33806 of 2018 dated 02.04.2019 [between P.Saravanan V. The Superintending Engineer, TANGEDCO, TNEB, Chengalpattu Electricity Distribution Circle, Chengalpattu] in paragraphs No.8 & 9, this Court has held as follows:

"8. In the case on hand, the order of suspension was issued long back and the writ petitioner is under continuous suspension without any progress in the departmental disciplinary proceedings as well as the criminal case. This being the factum of the case, this Court is of an opinion that there is no useful purpose would be served in keeping the writ petitioner under suspension for further period.

9. Accordingly, the following orders are passed:-

(i) The impugned order of suspension passed by the respondent in Memo No. 50/Adm.2/A.1/F.

Suspension/2009, dated 26.5.2009 is quashed.

(ii) The respondent is directed to reinstate the petitioner in service.

(iii) The respondent is directed to post the writ petitioner in any one of the non-sensitive post till the conclusion of the departmental disciplinary proceedings as well as the criminal case registered against the writ petitioner.

(vi) In W.P.No.13961 of 2018 dated 05.04.2019 [between B.Elankovan V. The Chairman, TANGEDCO, Nadippisai Pulavar K.R.Ramasamy Building, No.144, Anna Salai, Chennai - 600 002 and others] in paragraphs No.6 to 8, this Court has observed as follows:

"6. Competent Officials of the State as well as the Departments are the custodians of the tax payers money and they have got every duty to protect the public money and spend the same judiciously and in accordance with law. A public official wasting the tax payers money is committing misconduct and it is necessarily that such officials are also to be booked under the Discipline and Appeal Rules. The money of the tax payers are spend by the public officials without considering the circumstances and other aspects.

7. This apart, an employee is not allowed to take employment anywhere during the period of suspension. If a person is made to sit ideally without any work for number of years, the same would cause a mental agony, which is not good for the betterment of the society in general. All these aspects are to be considered, while prolonging the period of suspension. Even, at the time of reviewing the order of suspension, the authorities competent must take into consideration of all these aspects and if necessary, revoke the order of suspension and post such employee in any one of the non-sensitive post till the conclusion of the departmental proceedings or criminal case. In view of the fact that the writ petitioner is under suspension for the past eight years, there is absolutely no progress in the Departmental Disciplinary Proceedings.

8. Under these circumstances, this Court is of an opinion that the present writ petition is to be considered. Accordingly, the following orders are passed:-

(1) The impugned order of suspension issued by the fourth respondent in proceedings in Ref.No.F/N/vz;/40828-epgp1-c2-m/vz;/5838-2014 dated 26.12.2014 is quashed.

(2) The respondents are directed to reinstate the writ petitioner forthwith.

(3) The respondents are directed to post the writ petitioner in any one of the non-sensitive post till the conclusion of the departmental disciplinary proceedings."

(vii) In W.P.No.33379 of 2018 dated 08.04.2019 [between P.Govindarajan V. The Chairman cum Managing Director, TANGEDCO (Tamil Nadu Generation and Distribution Corporation Ltd.), Tamil Nadu Electricity Board, No.144, Anna Salai, Chennai- 2 and others], in paragraphs No.11 & 12, this Court has held as under:

"11. In the case on hand, the order of suspension was issued long back and the writ petitioner is under continuous suspension without any progress in the departmental disciplinary proceedings as well as the criminal case. This being the factum of the case, this Court is of an opinion that there is no useful purpose would be served in keeping the writ petitioner under suspension for further period.

12. Under these circumstances, this Court is of an opinion that the present writ petition is to be considered. Accordingly, the following orders are passed:-

(1) The impugned order of suspension issued by the third respondent in proceedings in Memo No.114197/951/ G7/G72/2015-1, dated 3.3.2015, is quashed.

(2) The respondents are directed to reinstate the writ petitioner in service.

(3) The respondents are directed to post the writ petitioner in any one of the non-sensitive post till the conclusion of the departmental disciplinary proceedings.

(viii) In W.P.No.11328 of 2019 dated 29.04.2019 [between J.Mathialagan V. The Chairman, Tamil Nadu Generation and Distribution Corporation Ltd., (TANGEDCO), NPKRR Maaligai, No.144, Anna Salai, Chennai and others] in paragraphs No.8 to 10, this Court has observed and held as follows:

"8. Competent Officials of the State as well as the Departments are the custodians

of the tax payers money and they have got every duty to protect the public money and spend the same judiciously and in accordance with law. A public official wasting the tax payers money is committing misconduct and it is necessarily that such officials are also to be booked under the Discipline and Appeal Rules. The money of the tax payers are spend by the public officials without considering the circumstances and other aspects

9. This apart, an employee is not allowed to take employment anywhere during the period of suspension. If a person is made to sit ideally without any work for number of years, the same would cause a mental agony, which is not good for the betterment of the society in general. All these aspects are to be considered, while prolonging the period of suspension. Even, at the time of reviewing the order of suspension, the authorities competent must take into consideration of all these aspects and if necessary, revoke the order of suspension and post such employee in any one of the non-sensitive post till the conclusion of the departmental proceedings or criminal case. In view of the fact that the writ petitioner is under suspension for the past seven years, there is absolutely no progress in the Departmental Disciplinary Proceedings.

10. Under these circumstances, this Court is of an opinion that the present writ petition is to be considered. Accordingly, the following orders are passed:-

(1) The impugned order of suspension issued by the third respondent in Memo No.115/ Adm.II/A4/ F.Suspension/2012 dated 11.5.2012 is quashed.

(2) The respondents are directed to reinstate the writ petitioner forthwith.

(3) The respondents are directed to post the writ petitioner in any one of the non-sensitive post till the conclusion of the departmental disciplinary proceedings."

6. Therefore, the learned counsel would submit that consistently this Court, even in cases of corruption, held that the employee cannot be suspended for an indefinite period. While so, in the present case, from 2016 onwards the petitioner has been placed under suspension.

7. According to the learned counsel, the criminal trial has not progressed at all and the

criminal trial is likely to be delayed. Therefore, the petitioner's claim for revocation of suspension notwithstanding the pendency of criminal trial is imperative and the issue is also directly covered by the above decisions of the Hon'ble Supreme Court of India and also of this High Court.

8.Per contra, Mr.J.Pothiraj, learned Special Government Pleader for the respondents would strongly object to grant of any relief to the petitioner on the ground that the petitioner was involved in corruption case and therefore, his reinstatement would be against public interest. In fact, when the criminal case is being tried, the petitioner has to wait till the outcome of the criminal proceeding and only if the petitioner comes out unscathed from the criminal proceedings, he can stake his claim for revocation of suspension. In the said circumstances, the authority has rightly rejected the representation of the petitioner, seeking revocation of the suspension.

9.The learned Special Government Pleader for the respondents would rely on the judgment of the Division Bench of this Court, which relied on by the 4th respondent while rejecting the representation of the petitioner, i.e. W.A.No.735 of 2013 dated 24.06.2013, wherein at paragraphs No.9 & 10, it is observed as follows:

"9. Similar provision applicable in respect of workers other than those engaged in clerical works governed under Rule 31(2)(a) of the Tamil Nadu Electricity Board Standing Order was considered by us in W.A.No.1604 of 2012 dated 28.2.2013, wherein the scope of interference in the order of suspension, which was passed due to involvement of a person in a bribery case, was considered and a decision was rendered to the following effect,

"7. Whether a person involved in a bribery case can challenge the order of suspension pending investigation in the criminal case in the Tamil Nadu Electricity Board was considered by the Division Bench of this Court in W.A.(MD)No.294 of 2010 Judgment dated 23.2.2011. In the said judgment in paragraphs 8 to 10 it is held thus,

"8. In W.A.No.1114 of 2007, dated 05.11.2007 also, a Division Bench of this Court [SJMJ, as he then was and NPVJ], in the case of the Secretary to Government of

Tamil Nadu and others vs. N. Shanmugasundaram, set aside the order of a learned Single Judge quashing an order of suspension and allowed the Writ Appeal and upheld the order of suspension on similar grounds. Another Division Bench of this Court [NPVJ and NKKJ] in the case of M. Rajammal v. Principal District Judge reported in 2009 (4) MLJ 212 held that Rule 17(e) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules contemplates that a member of a service may be placed under suspension from service, where an enquiry into grave charges against him is contemplated, or is pending or a complaint against him or any criminal offence is under investigation or trial and if such suspension is necessary in the public interest. In the said Judgment, the decisions of the Supreme Court in Hotel Imperial v. Hotel Workers' Union reported in AIR 1959 SC 1342 : 1959 II LLJ 544 and in R.P. Kapur v. Union of India reported in AIR 1964 SC 787 : 1966 II LLJ 164 were followed and upheld the similar order of suspension. In W.A.No.1818 of 2009, dated 15.12.2009, a Division Bench of this Court [RBIJ and NPVJ], in the case of S. Jeevanantham vs. the Government of Tamil Nadu and others considered an identical issue and confirmed the order of a learned Single Judge dismissing the Writ Petition, which was filed challenging the order of suspension. Suspension orders were also upheld in the case of D. Gnanasekaran v. Chief Educational Officer reported in 2007 (1) MLJ 457 and in the case of S. Jeyasingh Rajan v. President, Kalloorani Panchayat reported in 2006 (4) MLJ 59. The Supreme Court in the case of Allahabad Bank and another vs. Deepak Kumar Bhola reported in 1997 (4) SCC 1, upheld the order of suspension of a bank employee, who was facing a criminal offence involving in moral turpitude. In the said Judgment, the order of the High Court, Allahabad, quashing the order of suspension was set aside and the appeal filed by the bank was allowed.

9. The Supreme Court in the decision in Surain Singh v. State of Punjab reported in 2009 (1) Supreme 458 held that corruption in the administration has hampered the development of the Nation and the persons,

who involved in the corruption cases, should be dealt with firmly and the persons indulging in corruption practices cannot be allowed to be in public employment to maintain purity of administration, as such attitude will definitely affect public interest. In Paragraph No.7, it is held thus:-

"7. Day in and day out the gigantic problem of corruption in the public servants is on the increase. Large scale corruption retards the nation-building activities and everyone has to suffer on that count. Corruption is corroding like cancerous lymph nodes, the vital veins of the body politics, social fabric of efficiency in the public service and moralizing the honest officers. The efficiency in public service would improve only when the public servant devotes his sincere attention and does the duty diligently, truthfully, honestly and devotes himself assiduously to the performance of the duties of his post. [See: Swatanter Singh v. State of Haryana 1997 (4) SCC 14 and State of M.P v. Shambhu Dayal Nagar 2002 (1) SCC 1."

10. The Supreme Court in the decisions in R.P.Kapoor v. Union of India reported in AIR 1964 SC 7871; Balwantray Ratilal Patel v. State of Maharashtra reported in AIR 1968 SC 800; A.K.K.Nambiar v. Union of India reported in 1969 (3) SCC 864; V.P.Gidroniya v. State of Madhya Pradesh reported in 1970 (1) SCC 362; Ministry of Home Affairs v. Tarak Nath Ghosh reported in 1971 (1) SCC 734; Government of Andhra Pradesh v. V.Sivaraman reported in 1990 (3) SCC 57; Uttar Pradesh Rajya Krishi Utpadan Manti Samiti Parishad v. Sanjiv Rajah reported in 1993 (2) LLN 11; State of Orissa v. Bimal Kumar Mohanty reported in 1994 (1) LLN 889; State of Madhya Pradesh v. Ram Singh reported in 2000 (5) SCC 88; State Bank of India v. Rattan Singh reported in 2000 (10) SCC 396; K.C.Sareen v. CBI reported in 2001 (6) SCC 584; Union of India v Rajiv Kumar reported in 2003 (6) SCC 516, categorically held that a person involved in a criminal case, particularly in corruption case, can be placed under suspension till he is exonerated and he can claim only subsistence allowance." The order passed by the learned single Judge in setting aside the order of suspension of a person

involved in the bribery case was set aside and the writ appeal was allowed.

8. It is well settled principle of law that criminal offence is considered as wrong against State and the Judgment of the Supreme Court reported in (2012) 8 SCC 651 (Shyam Babu v. State of U.P.) can be usefully referred for the said proposition.

"10. Applying the principles laid down in the above referred decisions and in the light of Regulation 9 of the Tamil Nadu Electricity Board Employee's Discipline and Appeal Regulations, we hold that the order of the learned single Judge is liable to be set aside and accordingly set aside and the writ petition filed by the respondent herein is dismissed. As the respondent is kept under suspension from 15.7.2010 and charge sheet has been filed on 10.8.2011 in the criminal case, we direct the IX Additional Sessions Judge, Chennai, to dispose of C.C.No.26 of 2011 giving priority as expeditiously as possible, at any cost, not later than six months from the date of receipt of copy of this order."

10. He would also rely on the decision in Union of India and another V. Ashok Kumar Aggarwal reported in (2013) 16 Supreme Court Cases 147 wherein the Hon'ble Supreme Court, at paragraph 26, has inter alia held as under:

"..... In case the court comes to the conclusion that the authority is not proceeding expeditiously as it ought to have been and it results in prolongation of sufferings for the delinquent employee, the court may issue directions. The court may, in case the authority fails to furnish proper explanation for delay in conclusion of the enquiry, direct to complete the enquiry within a stipulated period. However, mere delay in conclusion of enquiry or trial can not be a ground for quashing the suspension order, if the charges are grave in nature. But, whether the employee should or should not continue in his office during the period of enquiry is a matter to be assessed by the disciplinary authority concerned and ordinarily the court should not interfere with the orders of suspension unless they are passed in mala fide and without there being even a prima facie evidence on record connecting the employee with the misconduct

in question."

11. According to the learned Special Government Pleader, the Hon'ble Supreme Court has held that long period of suspension however does not make order of suspension invalid. Therefore, he would submit that in case of corruption, the person, who was accused of corruption, is not entitled to be reinstated in service pending finalisation of the criminal case.

12. This Court is unable to appreciate the arguments advanced by the learned Special Government Pleader on behalf of the respondents particularly with reference to the citation, since those orders cited by him one the Hon'ble Supreme Court and other by a Division Bench of this Court were rendered prior to Ajay Kumar Choudhary case and therefore, it cannot hold the field any further after the pronouncement of the decision by the Hon'ble Supreme Court of India in the Ajay Kumar Choudhary case. In fact, after Ajay Kumar Choudhary case, numerous orders have been passed by the Division Bench as well as the learned single Judges of this Court following the legal principle of the Hon'ble Supreme Court and directed reinstatement of the suspended employees. Therefore, the arguments advanced on behalf of the respondents deserved to be rejected.

13. While so, this Court is in agreement with the submissions made on behalf of the learned counsel for the petitioner. The Hon'ble Supreme Court of India in Ajay Kumar Choudhary case has elaborately held that the suspension is only transitory or temporary in nature and must perforce be of short duration. In fact, in paragraphs No.11 and 12, the Hon'ble Supreme Court has frowned upon the long period of suspension'. Those paragraphs are also extracted hereunder:

"11. Suspension, specially preceding the formulation of charges, is essentially transitory or temporary in nature, and must perforce be of short duration. If it is for an indeterminate period or if its renewal is not based on sound reasoning contemporaneously available on the record, this would render it punitive in nature. Departmental/disciplinary proceedings invariably commence with delay, are plagued with procrastination prior and post the drawing up of the Memorandum of Charges, and eventually culminate after even longer delay.

12. Protracted periods of suspension,

repeated renewal thereof, have regrettably become the norm and not the exception that they ought to be. The suspended person suffering the ignominy of insinuations, the scorn of society and the derision of his Department, has to endure this excruciation even before he is formally charged with some misdemeanour, indiscretion or offence. His torment is his knowledge that if and when charged, it will inexorably take an inordinate time for the inquisition or inquiry to come to its culmination, that is to determine his innocence or iniquity. Much too often this has now become an accompaniment to retirement. Indubitably the sophist will nimbly counter that our Constitution does not explicitly guarantee either the right to a speedy trial even to the incarcerated, or assume the presumption of innocence to the accused. But we must remember that both these factors are legal ground norms, are inextricable tenets of common law jurisprudence, antedating even the Magna Carta of 1215, which assures that - "We will sell to no man, we will not deny or defer to any man either justice or right." In similar vein the Sixth Amendment to the Constitution of the United States of America guarantees that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial.

"14. In same lines, various High Courts and particularly this High Court have passed numerous orders setting aside the suspension order and directed the authorities concerned to post the suspended officers concerned in non-sensitive posts. This was done keeping in mind public interest, as payment of huge subsistence allowance without extracting work from the employee concerned, drains public exchequer. Moreover, the person accused is entitled to speedy trial under Article 21 of the Constitution of India. Therefore, in order to uphold the public interest and also constitutional imperatives, the suspension orders have been interfered with by the Courts.

9. In the above judgment, this Court has extracted all the judgments on the point and has arrived at a conclusion to the effect that even in a corruption case, an employee cannot be kept under suspension for indefinite period. This Court has also held that the concerned employee in such cases can be posted in a non-sensitive post, since payment of huge

subsistence allowance without extracting work from the employee concerned, drains public exchequer.

10. In the present case, the petitioner has been kept under suspension with effect from 14.09.2017 onwards and the petitioner continuous to receive subsistence allowance without doing any work. That apart, there is no progress in the criminal case and the final report has not been filed. The petitioner has also not been served with any charge memo by the respondent. This position cannot continue endlessly and the petitioner cannot be allowed to receive subsistence allowance without extracting work from her.

11. In view of the above discussion, the following directions are issued in this Writ Petition:-

(a) The District Crime Branch, Salem, is directed to file a final report in Crime No.20 of 2017, within a period of two months from the date of receipt of a copy of this order.

(b) The respondent is directed to issue a charge memo against the petitioner and commence the departmental proceedings and complete the same, within a period of three months from the date of issuing charge memo. It is made clear that the pendency of the criminal case will have no bearing on the departmental proceedings initiated by the respondent and it can proceed independently.

(c) The respondent is directed to revoke the suspension order dated 18.09.2017 and post the petitioner in a non-sensitive post in any district and extract work from the petitioner for paying her monthly salary.

12. This Writ Petition is disposed of, accordingly. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar (CS-VI)

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Sub Assistant Registrar

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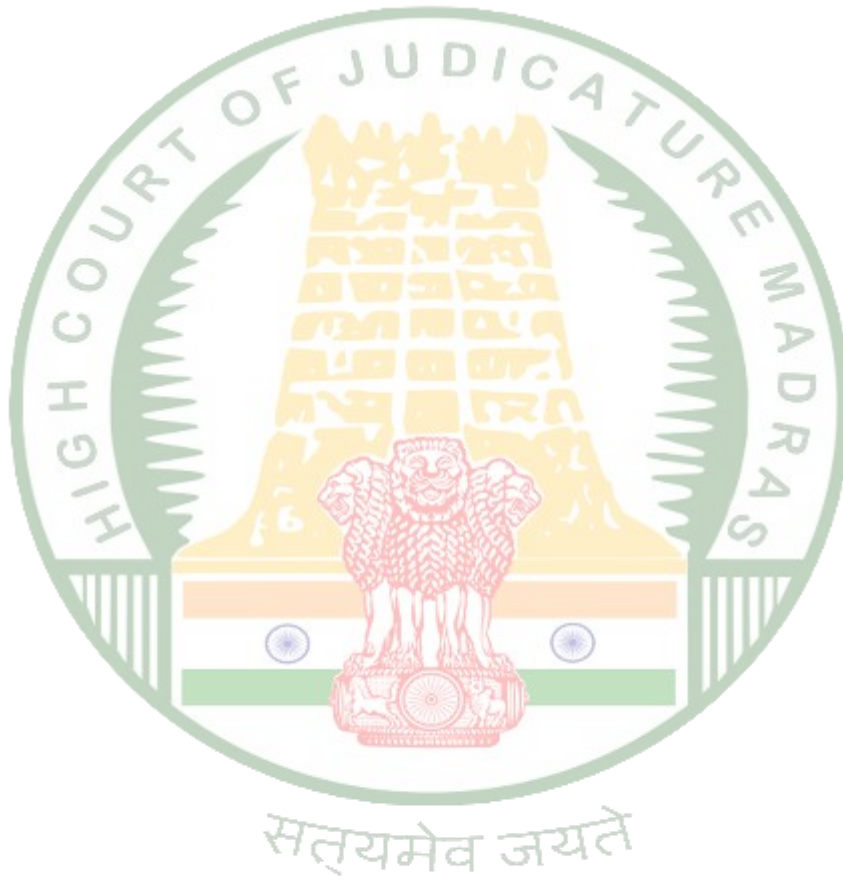
1. The Director of Local Fund Audit,
Nandanam,
Chennai-600 035.

2. The District Crime Branch,
Salem.

+lcc to Mr.S.Selvathirumurugan, Advocate SR.No.1598

W.P No.35568 of 2019

SV(CO)
GMY(06/02/2020)



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