



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.08.2020**

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.8597 of 2020

W.M.P(MD).Nos.7965 and 7970 of 2020

M.Anbuselvam

... Petitioner

-Vs-

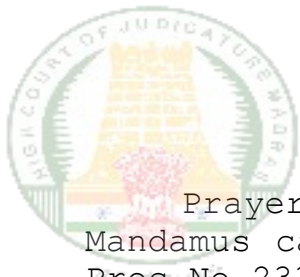
1. The Superintending Engineer,
Highways,
Construction and Maintenance,
High Ways Office Campus,
Racecourse, Madurai-02.
2. The Divisional Engineer,
Highways,
Construction and Maintenance,
High Ways Office Campus,
Racecourse, Madurai 02.
3. The Assistant Divisional Engineer,
Highways,
Construction and Maintenance,
High Ways Office Campus,
Melur, Madurai District.

...Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the record pertaining to the impugned order in Proc.No.2339/2019/B2 dated 17.10.2019 on the file of the second respondent and quash the same as illegal and consequently, direct the second respondent to revoke the suspension order and reinstate the petitioner in the post of Gang-Mazdoor with the third respondent office with consequential benefits within the time stipulated by this Court.

For Petitioner : Mr.T.Thirumurugan

For Respondents : Mrs.J.Padmavathidevi
Special Government Pleader



ORDER

Prayer sought for herein is for a Writ of Certiorarified Mandamus calling for the record pertaining to the impugned order in Proc.No.2339/2019/B2, dated 17.10.2019 on the file of the second respondent and quash the same, as illegal and consequently, direct the second respondent to revoke the suspension order and reinstate the petitioner in the post of Gang-Mazdoor with the third respondent office with consequential benefits within the time to be stipulated by this Court.

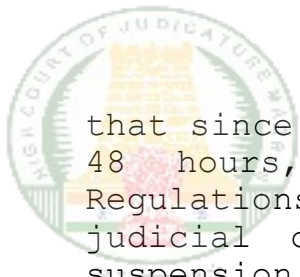
2.Heard Mr.T.Thirumurugan, learned counsel appearing for the petitioner and Mrs.J.Padmavathidevi, learned Special Government Pleader appearing for the respondents.

3.By consent of both sides, this Writ Petition is taken up for final disposal at the admission stage itself.

4.The petitioner was working as Gang-Mazdoor under the respondent department. While so, related to a criminal case filed in Crime No.16/2019 on the file of the All Women Police Station, Melur, dated 11.09.2019, the petitioner had been arrested on 14.10.2019 and had been in judicial custody for more than 48 hours. On receipt of such information from the concerned Inspector of Police of All Women Police Station, Melur, vide communication dated 16.10.2019, the second respondent has placed the petitioner under suspension vide order, dated 17.10.2019 as the petitioner had been in judicial custody for more than 48 hours. Therefore, in the public interest and in view of the contemplation of disciplinary proceedings, he was placed under suspension. The said order is impugned in this writ petition.

5.Mr.T.Thirumurugan, learned counsel appearing for the petitioner would submit that, even though the petitioner was placed under suspension by impugned order dated 17.10.2019, even till today no progress has been shown in the investigation as no charge sheet has been filed and no departmental proceedings has also been initiated. Therefore, the learned counsel for the petitioner would submit that, whether the petitioner can be further kept in prolonged suspension beyond this period i.e., more than ten months and whether any necessity to that effect is still available, has to be considered and in this regard, the impugned suspension order can very well be reviewed by the respondent, especially the second respondent and in this regard, since the petitioner has given a representation on 04.06.2020, the said representation can be directed to be considered within a time frame to be stipulated by this Court on merits and in accordance with law.

6.I have heard Mrs.J.Padmavathi Devi, learned Special Government Pleader appearing for the respondents, who would submit



that since the petitioner had been in judicial custody for more than 48 hours, invoking the relevant provisions of the Service Regulations, which contemplates that the employee, who had been in judicial custody for more than 48 hours, can be placed under suspension pending contemplation of disciplinary proceedings, he has been placed under suspension.

7.The learned Special Government Pleader would also submit that, if at all no charge sheet is filed in the criminal proceedings so far, the request of the petitioner, dated 04.06.2020 by way of representation submitted to the respondents would be considered by the second respondent by way of review of the impugned suspension order on merits and in accordance with law and accordingly, a decision would be taken and orders would be passed within a time frame.

8.Considering the limited scope of the prayer sought for in this writ petition and taking into account the submission made by the learned counsel appearing for both sides, this Court is inclined to dispose of this writ petition with the following directions:

'that the second respondent is hereby directed to consider the representation of the petitioner, dated 04.06.2020 on merits and in accordance with law and decide as to whether the suspension order, dated 17.10.2019, which is impugned herein, can further be extended or the same can be revoked in view of the circumstances, as discussed above and accordingly, take a decision within a period of eight (8) weeks from the date of receipt of a copy of this order.'

9.With this directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

rmk

Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.



To

1.The Superintending Engineer,
Highways, Construction and Maintenance,
High Ways Office Campus,
Racecourse, Madurai-02.

2.The Divisional Engineer,
Highways, Construction and Maintenance,
High Ways Office Campus,
Racecourse, Madurai 02.

3.The Assistant Divisional Engineer,
Highways,
Construction and Maintenance,
High Ways Office Campus,
Melur, Madurai District.

W.P. (MD) No. 8597 of 2020
04.08.2020

CS: 02.09.2020 4P 4C