



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **13.08.2020**

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

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W.P.(MD)No.9198 of 2020

and

W.M.P(MD)No.8395 of 2020

M.Subramaniyan

... Petitioner

-Vs-

1.The District Collector,
Pudukkottai District,
Pudukkottai.

2.The District Revenue Officer,
Pudukkottai District,
Pudukkottai.

3.The Revenue Divisional Officer,
Pudukkottai District,
Pudukkottai.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned charge memo of the second respondent in Na.Ka.No.21424/2019/A3 dated 15.06.2020 quash the same and consequently direct the respondents herein to regularize the period of suspension with all monetary and service benefits including promotion on par with his juniors with due seniority.

For Petitioner : Mr.K.Muthu Ganesa Pandian

For Respondents : Mrs.J.Padmavathi Devi
Special Government Pleader

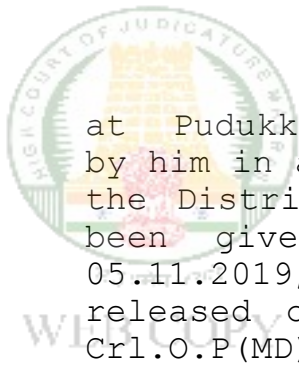
ORDER

The prayer sought for herein is for a Writ of Certiorarified Mandamus, to call for the records relating to the impugned charge memo of the second respondent in Na.Ka.No.21424/2019/A3, dated 15.06.2020 quash the same and consequently, direct the respondents herein to regularize the period of suspension with all monetary and service benefits including promotion on par with his juniors with due seniority.

2.Heard Mr.K.Muthu Ganesa Pandian, learned counsel appearing for the petitioner and Mrs.J.Padmavathi Devi, 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 has been working as Senior Revenue Assistant



at Pudukkottai Revenue Unit. While so, due to some message shared by him in a group of employees at the District on 04.11.2019 against the District Administration, it seems that a Police complaint has been given, pursuant to which, FIR has been registered on 05.11.2019, following which, he was arrested and thereafter, he was released on bail and the said FIR was also under challenge in Crl.O.P(MD).No.2868 of 2020, where, this Court, by order dated 19.02.2020, has granted an interim order of stay.

5.Parallely, on 04.11.2019 pending contemplation of a disciplinary proceedings against the petitioner, he has been placed under suspension.

6.Though the said suspension order has been already challenged before this Court in a related writ petition, which is pending before this Court, the petitioner has been under continuous and prolonged suspension till date. In the meanwhile, recently, impugned charge memo, dated 05.06.2020 has been issued, where, two set of charges have been framed against the petitioner. Though the charge memo dated 05.06.2020, which has been served on the petitioner, thereafter, it seems that, no progress has been made, as no Enquiry Officer seems to have been appointed. Therefore, in these circumstances, the petitioner has approached this Court challenging the impugned charge memo.

7.The learned counsel for the petitioner would submit that, despite the petitioner has been in suspension from 04.11.2019 till date, he has not been paid the subsistence allowance. Hence, he seeks indulgence of this Court against the impugned charge memo.

8.The learned Special Government Pleader appearing for the respondents would submit that, on receipt of the charge memo, the petitioner has to give his explanation and on receipt of explanation, if the respondents decide to accept the same, will accept, otherwise they will proceed to conduct the enquiry and that enquiry officer would be appointed, at any rate, if the enquiry is conducted, that will be completed within a reasonable period and final order to that effect will be passed.

9.Insofar as the non-payment of subsistence allowance from 04.11.2019 is concerned, learned Special Government Pleader would submit that, that factor would be verified and if subsistence allowance is not paid to the petitioner, the same will be paid, immediately.

10.I have considered the said submissions made by the learned counsel appearing for both sides.

11.Since the disciplinary proceedings has been initiated against the petitioner, where, charge memo has been given with



definite charges, it is for the petitioner to respond the same by giving his explanation and such explanation shall be given within a time frame. Once the explanation is given, it is for the respondents to decide whether the respondents are satisfied with the explanation to be given by the petitioner, if not, it is open to the respondents to proceed against the petitioner by way of conducting enquiry and complete the same, within a reasonable time by passing a final order. However, in the meanwhile, since the petitioner has been under suspension from 04.11.2019, he is entitled to get the subsistence allowance payable to him.

12.In that view of the matter, taking into account the aforesaid factual matrix, and after perusal of the materials placed before this Court and after hearing both sides, this Court is inclined to dispose of this writ petition with the following order:

'(i)that the petitioner shall give his explanation to the impugned charge memo within a period of two(2) weeks from the date of receipt of a copy of this order and on receipt of the same, it is for the respondents to decide that, they will be satisfied on the explanation to be given by the petitioner, otherwise, it is open to the respondents to proceed with the enquiry. Once the enquiry is commenced, the same shall be completed and final order shall be passed, within a period of two(2) months, thereafter. In the meanwhile, since the petitioner has been suspended and has been in continuous suspension from 04.11.2019 without getting the subsistence allowance, the same shall be verified by the respondents and if the subsistence allowance is not paid, the same shall be calculated till date and be paid immediately.

(ii)If the enquiry is not completed within a time frame, stipulated above, the suspension order dated 04.11.2019 shall be reviewed by the respondents as to whether the suspension has to be continued further for assigned reasons.'

13.With these observations and directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

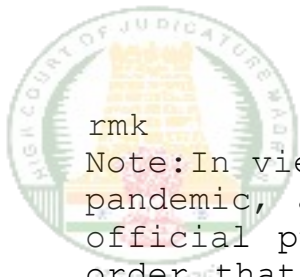
Sd/-

Assistant Registrar (CS II)

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Sub Assistant Registrar(CS)



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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.

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