



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.10447 of 2020

and

W.M.P. (MD) Nos.9244, 9245 & 9247 of 2020

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M.Diwankanth

... Petitioner

Vs.

The Deputy Commissioner (State Tax),
State Tax Department,
Office of the Deputy Commissioner.
Karur District,
Karur.

... Respondent

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned suspension order passed by the respondent in his proceedings in S.C.No.2/2019 dated 19.06.2019 and set aside the same as illegal and arbitrary and consequently direct the respondent to reinstate the petitioner in the post of driver under his office.

For Petitioner : Mr.R.Sevugaraja

For Respondents : Mrs.J.Padmavathy Devi,
Special Government Pleader

O R D E R

The prayer sought for in this writ petition is for a Writ of Certiorarified Mandamus, to call for the records relating to the impugned suspension order passed by the respondent in his proceedings in S.C.No.2/2019, dated 19.06.2019 and to set aside the same and consequently direct the respondent to reinstate the petitioner in the post of driver under his office.

2. The petitioner has been working as a Driver at the respondent Office, against whom, it seems that, a number of complaints had been given by some of the employees working in the very same office and some other third party, about some financial irregularities, that the petitioner allegedly cheated those complainants and based on which, criminal cases have been filed. Accordingly, in three cases, First Information reports(F.I.R.) were filed and in view of the cases filed by the colleagues, the petitioner was arrested on 19.06.2019 and has been in judicial custody for some time and thereafter, it seems that, against the



petitioner, Goondas Act was also invoked, as a result of which, he has been in judicial custody by way of Preventive Detention for nearly about six months and thereafter, his detention was set aside by this Court and accordingly, from the detention, he was released from jail on 12.01.2020.

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3. In the meanwhile, in view of the aforesaid developments, the respondent, by order dated 19.06.2019 placed the petitioner under suspension and all along the petitioner has been under suspension till date. Therefore, in order to review the aforesaid suspension dated 19.06.2019, since it was according to the petitioner, a prolonged suspension, this writ petition has been filed with the aforesaid prayer.

4. Heard the learned counsel appearing for the petitioner, who would submit that though three F.I.R.'s have been registered against the petitioner, no progress has been shown in the investigation of the police and all these F.I.R.'s are still pending and no charge sheet has been filed in any of the cases so far.

5. He would also submit that, in the meanwhile, the detention order dated 01.07.2019 also has been set aside by this Court, pursuant to which, he has been released from jail on 12.01.2020. Therefore, the learned counsel for the petitioner would submit that, the suspension order, dated 19.06.2019, under which, the petitioner has been under suspension for more than a year, and since the respondent Department has also not framed any charge memo by initiating disciplinary proceedings against the petitioner, can very well be reviewed. Therefore, only in that context, the present writ petition is being filed seeking indulgence of this Court in the impugned suspension order.

6. However, Mrs.J.Padmavathi Devi, learned Special Government Pleader appearing for the respondent would submit that, there were several complaints against the petitioner and some of the complainants are the employees of the respondent office and some of the complaints were received from outsiders.

7. In view of the said complaints, where, allegedly the petitioner committed some offence including the offence of cheating and criminal breach of trust and misappropriation and pursuant to the criminal cases registered in the said F.I.R.'s, the petitioner had been arrested on 19.06.2019 and he has been in judicial custody for more than 48 hours.

8. Subsequently, the District Collector concerned, invoked Act 14 of 1982 and has placed the petitioner under detention and for a period of six months, he had been in detention and later on, the



petitioner was released by the orders of this Court and in the meanwhile, on 19.06.2019 due to the aforesaid developments, the petitioner has been placed under suspension.

9. Since there are number of criminal cases filed and are pending against the petitioner, where investigation is going on, at this juncture, it is not justifiable on the part of the petitioner to seek indulgence of this Court or the respondent to review the impugned suspension order.

10. This Court has considered the said submissions made by both sides and perused the materials placed before this Court.

11. Though three cases at F.I.R. stage are pending against the petitioner, pursuant to which, the petitioner has been in judicial custody for some time, which triggered the respondent to issue the impugned suspension order dated 19.06.2019 and subsequently by virtue of the revocation of Act 14 of 1982, the petitioner had been in detention for six months and subsequently the said detention order was set aside by this Court and he has been set at large. However, the criminal cases which are pending against him are concerned, admittedly, it seems that no charge sheet has been so far filed, and therefore, those criminal cases are pending only in the investigation stage.

12. However, unmindful of the said pendency of the criminal cases, since there is no impediment for the respondent to proceed against the petitioner by way of disciplinary proceedings, so far, the respondent has also not initiated any disciplinary proceedings by issuance of any charge memo.

13. In this regard, when this was specifically pointed out by this Court, Mrs.J.Padmavathi Devi, learned Special Government Pleader appearing for the respondent would submit that, certainly, the charge memo would be served on the petitioner, following which, disciplinary proceedings would be conducted after giving reasonable opportunity to the petitioner and at any rate, disciplinary proceedings would be concluded within a period of four months time. Therefore till such time, the impugned suspension order need not be revoked. Hence, the present prayer sought for in this writ petition can be rejected, she contended.

14. In view of the said submission made by the learned Special Government Pleader appearing for the respondent, on the aforesaid pointed queries about the proposal with regard to the departmental proceedings to be initiated against the petitioner, this Court is inclined to dispose of the writ petition, by taking into account the said submission made by both sides, with the following order:-

That the respondent is hereby directed to initiate



disciplinary proceedings against the petitioner by issuance of charge memo, with definite charges and on receipt of the same, the petitioner shall be at liberty to respond.

Thereafter, it is for the respondent to decide as to whether proceed with the enquiry or not and once they decided to proceed with the enquiry, that shall be completed after giving a second opportunity to the petitioner, and the same shall be completed by passing of final orders within a period of four months from the date of receipt of a copy of this order."

15. It is made clear that, the petitioner shall give his fullest cooperation for the completion of the disciplinary proceedings, as indicated above and once the disciplinary proceeding is initiated, the petitioner shall not make any attempt to clog such proceedings by approaching this Court on the ground that, criminal proceedings are pending, therefore, the departmental proceedings cannot go on.

16. If any such attempt is made, and by virtue of that, if the departmental proceedings could not be progressed as indicated above, for which, no reason can be attributable on the respondent and only the reason attributable will be on the petitioner's side and if the departmental proceeding is delayed, as a result of which, the petitioner cannot seek indulgence of this Court for revocation or review of the impugned suspension order.

17. With these directions and observations, the Writ Petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

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.



To:

The Deputy Commissioner (State Tax),
State Tax Department,
Office of the Deputy Commissioner.
Karur District,
Karur.

+1 CC to SGP (SR-15708[F] dated 02/09/2020)

Order made in
W.P. (MD) No. 10447 of 2020

Dated:
31.08.2020

KM(CO)
KM (14.10.2020) 5P 3C