



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 11.02.2020

PRONOUNCED ON : **28.02.2020**

CORAM:

THE HONOURABLE **MR.JUSTICE M.S.RAMESH**

W.P.(MD)No.18652 of 2019
and
W.M.P.(MD)No.15016 of 2019

P.Kandhan

...Petitioner

/vs./

1.The Superintendent of Police,
Dindigul District.

2.The Inspector of Police,
All Women Police Station,
Dindigul District.

3.The Chief Educational Officer,
Dindigul - 620 003.

4.The District Educational Officer,
Vedasanthur,
Dindigul District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of the 3rd respondent dated 30.07.2019 in R.C.No.7412/C4/2019 and quash the same and consequently direct the 3rd and 4th respondent to reinstate the petitioner into service with all the consequential benefits with effect from 30.07.2019.

For Petitioner	:	Mr.J.Thomas Rajadurai
For R-1 & R-2	:	Mr.R.Sethuraman Special Government Pleader
For R-3 & R-4	:	Mr.M.Karuppasamy Government Advocate



ORDER

The petitioner herein is employed as an B.T.Assistant in a Government High School in Dindigul District. In connection with a matrimonial dispute, the petitioner's wife had given a police complaint against the petitioner, owing to which, the petitioner came to be arrested on 25.07.2019 and remanded under judicial custody. In continuation of the same, the third respondent herein had placed the petitioner under suspension from his services with effect from 25.07.2019. The said order of suspension dated 30.07.2019 is put under challenge in the present writ petition.

2. The Hon'ble Apex Court, in the decision in **Ajay Kumar Chowdery vs. Union of India** reported in **2015 (7) SCC 291**, has held that suspension beyond a period of three months is impermissible and in case the respondents are of the view that the suspension period requires to be continued, after the said period of three months, a reasoned order requires to be passed, substantiating such continuation of suspension is required.

3. In the instant case, no such order has been passed to substantiate that the petitioner's suspension is required beyond the period of three months. Apart from the same, the police have also not filed a charge sheet within a period of three months nor have the respondents levelled charges for departmental action against the petitioner within the said period. As such, the continuation of suspension of the petitioner itself is opposed to the decision of the Hon'ble Apex Court held in **Ajay Kumar's** case.

4. Apart from the aforesaid observations, it requires to be mentioned that Rule 17 (e) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules [hereinafter referred to as 'said Rules' for the sake of brevity] empowers the respondents to place a Government employee under suspension. However, Sub-Rule (5) provides that such suspension should be to the subjective satisfaction, that such action is necessary in public interest.

5. In the instant case, the criminal case is purely based on the indifferences and other criminal overt acts attributed by the petitioner's wife, arising out of a matrimonial dispute, which can only be termed as 'a private interest' between the parties and not a public interest, envisaged under Rule 17 (e) (5) of the said Rules. While that being so, the order of suspension itself cannot be sustained.



6. For all the foregoing reasons, the impugned order of the 3rd respondent dated 30.07.2019 in R.C.No.7412/C4/2019 stands quashed. This Writ Petition is allowed accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1.The Superintendent of Police, Dindigul District.

2.The Inspector of Police,
All Women Police Station, Dindigul District.

3.The Chief Educational Officer, Dindigul - 620 003.

4.The District Educational Officer,
Vedasanthur, Dindigul District.

+1 CC to M/s.J.THOMAS RAJADURAI, Advocate (SR-9665[F] dated
02/03/2020)

Order made in
W.P.(MD)No.18652 of 2019
Dated: 28.02.2020

JMN(09.03.2020) 3P : 6C