

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2021

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.1795 of 2021

S.Kailasam

... Petitioner

vs.

1. The Secretary to Government,
Home (Prisons) Department,
Secretariat, Chennai 600 009.

2. The Additional Director General of Police/
Inspector General of Prisons,
Whannels Road,
Egmore, Chennai 600 008.

3. The Superintendent of Prisons,
Central Prison,
Trichy - 620 008.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st and 2nd Respondents to consider the representations submitted by the Petitioner dated 07.10.2020 and 02.11.2020 for revocation of suspension ordered on 12.03.2019 i.e. or more than 22 months, without prejudice to the disciplinary proceedings or criminal proceedings initiated and to pass appropriate orders based on the orders issued by the Government in G.O.(Ms.) No.30, P & AR Department, dated 23.02.2012 to review the suspension and in the light of the orders issued by the Hon'ble Supreme Court in the case of Ajay Kumar Choudhry vs. Union of India, within a reasonable period.

For Petitioner : Mr.S.N.Ravichandran
for Mr.T.Ranganathan

For Respondents : Mr.J.Pothiraj
Special Government Pleader

ORDER

Petitioner has come up with the present Writ Petition seeking a direction to the Respondents to consider his representations dated 07.10.2020 and 02.11.2020 as regards revocation of suspension ordered on 12.03.2019, within a reasonable time.

2. Learned counsel for the Petitioner submitted that, the Petitioner has been falsely implicated in a case, consequent to which, he was placed under suspension on 07.02.2019. For revocation of suspension, the Petitioner made representations to the 2nd Respondent on 07.10.2020 and on 02.11.2020. However, the same did not evoke any response.

3. Mr.J.Pothiraj, learned Special Government Pleader, who takes notice for the Respondents submitted that, serious charges have been made against the Petitioner and that, the factum of conclusion of the criminal case needs to be ascertained.

4. Considering the facts and circumstances of this case, this Court is of the view that, if the Petitioner is under suspension beyond the required period, it is open to the Respondents to consider his request and review the same in the light of the judgements of the Honourable Supreme Court in State of Tamilnadu vs. Promod Kumar IPS and another reported in AIR 2018 SC 4060 and Ajay Kumar Choudhary vs. Union of India reported in 2015 (3) CTC 119.

5. It is needless to mention that, if any departmental proceedings have been commenced or initiated, it is open to the Respondents to proceed with the same so as to bring the proceedings to a logical end, de hors pendency of the criminal case, as both criminal proceedings as well as departmental proceedings can go on simultaneously and the criminal case should be proved beyond reasonable doubt by adducing oral and documentary evidence, whereas, charges in the departmental proceedings should be established on the basis of preponderance of probability. If criminal proceedings are not initiated or concluded within one year from the date of F.I.R., there is no hindrance on the part of the employer to proceed with the departmental proceedings on a day to-day basis and bring the issue to a logical end at the earliest point of time and the employee will have to participate in the departmental proceedings and shall not attempt to adopt dilatory tactics.

With the above observation, this Writ Petition is disposed of. No costs.

sd/-

Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

(aeb)

To:

1. The Secretary to Government,
Home (Prisons) Department,
Secretariat, Chennai 600 009.
2. The Additional Director General of Police/
Inspector General of Prisons,
Whannels Road,
Egmore, Chennai 600 008.
3. The Superintendent of Prisons,
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+1 cc to M/s.S.N.Ravichandran Advocate sr5131
+1 cc to Government pleader sr15547

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