IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.6472 of 2021

G.Raja ... petitioner

vs

The Registrar General
High court of Madras
Chennai -600104 ... respondent

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the respondent pertaining to the order of suspension issued against the petitioner in Roc.No.644/2015/VC/B2 dated 30.12.2019 and to quash the same and issue consequential directions to the Respondent to reinstate the petitioner in service.

For Petitioner : Mr.M.Ravi
For Respondents : Mr.B.Vijay

ORDER
(made by the Hon'ble Chief Justice)

The petitioner complains of the long suspension of the petitioner from service without the petitioner's representation for reinstatement and revocation of the order of suspension being taken up for consideration by the employer.

2. The petitioner is a judicial officer and once discharged the duties of a Chief Judicial Magistrate. The petitioner has been suspended pursuant to a notice dated December 30, 2019. There are several charges against the petitioner including of moral turpitude, involving his connivance with his brother to undertake commercial activities while still in service, assets and funds grossly disproportionate to the petitioner's known sources of income and the like. The petitioner says that he has been suspended for a long time and continues to be so even now while the expected disciplinary proceedings show no sign of taking off.

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3. The petitioner relies on a judgment reported at (2015) 7 SCC 291 (Ajay Kumar Choudhary vs. Union of India), to say that the Supreme Court has frowned on continued suspension with reduced pay since, in such a scenario, it does not enure to the benefit of the employer to pay the employee without obtaining any services and it does not enure to the benefit of the employee to not undertake any work and receive less payment. However, the rule is not of universal application and there are certain caveats thereto. While it is understandable that government employers should not waste tax- payer money in giving out subsistence allowance to a perceived delinquent without completing disciplinary proceedings expeditiously, it has equally to be accepted that a person facing serious charges involving moral turpitude should not be allowed to resume work pending the inquiry into his conduct. In the present case, the petitioner has made appeals for the revocation of his suspension, for enhancement of his subsistence allowance and for the conclusion of the disciplinary proceedings.

4. The petitioner will be free to urge that the subsistence allowance to the petitioner should be increased. The petitioner would be entitled to seek early conclusion of the disciplinary proceedings, but cannot cite such grounds for either his suspension to be revoked or the petitioner to be reinstated honourably. It is for the employer to ensure that the petitioner's prayer for enhanced allowance during suspension is taken up for consideration along with the petitioner's prayer for the expeditious conduct of the disciplinary proceedings.

5. Since the matter is pending for quite some time, it is hoped that the disciplinary proceedings are concluded in course of this year, without any delay being attributable to the petitioner.

6. W.P.No.6472 of 2021 is disposed of. There will be no order as to costs. Consequently, W.M.P.No.7051 of 2021 is also closed.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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To:

The Registrar General
High court of Madras
Chennai -600104

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The Section Officer,
"B" Section, High Court,
Madras-104.

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