



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2021

CORAM:

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN

W.P.No.7389 of 2021

and WMP.No.7897 of 2021

M. Sethuraj

... Petitioner

..Vs..

1. The State of Tamil Nadu
Rep.by its Secretary
Revenue Administration and
Disaster Management Department
Fort St.George
Chennai.

2. The District Collector,
O/o.The District Collector
Collectorate
Erode.

... Respondents

Prayer:- This Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order of the second respondent passed in Rc.No.6713/2021/A3 dated 09.03.2021 and quash the same and consequently direct the second respondent to reinstate the petitioner with all monetary and attendant benefits.

For Petitioners	:	Mr.Jegan for Mr.A.Mohamed Ismail
For Respondents	:	Mr.J.Pothiraj Special Government Pleader

ORDER

This writ petition has been filed to call for the records pertaining to the impugned order of the second respondent passed in Rc.No.6713/2021/A3 dated 09.03.2021 and quash the same and consequently direct the second respondent to reinstate the petitioner with all monetary and attendant benefits.



2. The petitioner has come forward challenging the suspension dated 09.03.2021 on the ground that there is a demand and acceptance of illegal gratification which is under trial in respect of criminal offence. According to the petitioner there is no criminal case pending against the petitioner. In the suspension order respondent has also not stated that there is a criminal case pending. But however stated that it is criminal offence. Whether a criminal case has been registered or going to be registered finding need not be rendered at this stage. Placing an employee under suspension is left to the discretion of the department. The order of suspension is not a punishment and the relationship between the employer and the employee subsists even during the period of suspension. When there is master and servant relationship, the suspension can be effected by the employer and it cannot be questioned except on certain grounds like competence of the Authority issuing the said order, want of jurisdiction, contrary to the Rules, etc. As long as the competency of the authority issuing the suspension order is not challenged, this Court cannot interfere with the order of the suspension.

3. It is for the respondents to review the suspension periodically, depending upon the circumstances prevalent, taking note of the judgment of the Hon'ble Supreme Court in Ajay Kumar Choudhary vs. Union of India through its Secretary and another, reported in 2015 (7) SCC 291, and to consider his reinstatement in a non sensitive post, provided there are no legal impediments.

4. It is needless to mention and open to the respondents to issue charge memo and proceed with the enquiry on day-to-day basis without adjourning the matter beyond seven working days at any point of time to bring the issue to the logical conclusion after payment of arrears of subsistence allowance, if any. In case, the petitioner is under suspension beyond the required period of suspension, it is open to the respondents to consider the request and review the same in the light of the aforesaid judgements of the Honourable Supreme Court 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 probabilities. If Criminal Proceedings are not initiated or concluded within one year from the date of FIR, there is no hindrance on the part of the employer to proceed with the departmental proceedings on 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.

5. With the above observations, the writ petition is disposed of. No costs. Consequently connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS VII)

/TRUE COPY/

Sub-Assistant Registrar

dpq

TO

1. The Secretary
Revenue Administration and
Disaster Management Department
Fort St.George
Chennai.

2. The District Collector,
O/o.The District Collector
Collectorate
Erode.

+1CC TO MR.A.MOHAMED ISMAIL, ADVOCATE, SR.NO. 18515
+1CC TO M/S.SPECIAL GOVERNMENT PLEADER, SR.NO. 18599

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GPL (CO)
KKN 22.04.2021