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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.03.2021

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.8245 of 2021

and

W.M.P.Nos.8792 & 8793 of 2021

(Heard through VC)

M.Adhiyaman

... Petitioner

-vs-

1. The Commissioner,
Adi Dravidar Welfare Department,
Ezhilagam, Chepauk,
Chennai - 600 005.
2. The District Adi Dravidar and Tribal Welfare Officer,
Villupuram District,
Villupuram.
3. The District Adi Dravidar and Tribal Welfare Officer,
Kallakurichi District,
Kallakurichi.

.. Respondents

Prayer: Petition filed under Article 226 of Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the 1st respondent in R.C.No.12/17920/2018 dated 22.01.2021 and quash the same and consequently directing the respondents to reinstate the petitioner into service with all consequential and other attendant benefits including the arrears of salary.

For Petitioner : Mr.S.Nedunchezhiyan
for Mr.G.Sankaran

For Respondents : Mr.P.V.Selvakumar
Additional Government Pleader

O R D E R

The writ petition has been filed challenging the order of suspension passed by the first respondent in R.C.No.12/17920/2018 dated 22.01.2021 and for a consequential direction to the respondents to reinstate the petitioner into



service with all consequential and other attendant benefits including the arrears of salary.

2. Mr.P.V.Selvakumar, learned Additional Government Pleader takes notice on behalf of the respondents. By consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

3. According to the petitioner, he was already transferred from Panayapuram as early as on 29.10.2019 and working in Government ADW Middle School, Madam, Kallakurichi District from the said date and that the suspension order was issued by an incompetent Authority and therefore, the impugned order needs interference.

4. In similar circumstances, this Court has elaborately dealt with the issue in W.P.No.13 of 2021 (V.Mohanraj vs. The Secretary and two others), and passed a detailed order on 06.01.2021. For the sake of convenience, the relevant Paragraph Nos.6 to 10 are extracted hereunder:

"6. Considering the facts and circumstances of this case, this Court is not going to direct the respondents to promote the petitioner to the post of Inspector by including him in the panel and it is for the respondents to consider the same. 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.

7. In this regard, the Hon'ble Supreme Court in the case of Stanzen Toyotetsu India Private Limited vs. Girish v. and others, reported in (2014) 3 SCC 636, has clearly laid down a dictum as under:



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"19. In the circumstances and taking into consideration all aspects mentioned above as also keeping in view the fact that all the three Courts below have exercised their discretion in favour of staying the on-going disciplinary proceedings, we do not consider it fit to vacate the said order straightaway. Interests of justice would, in our opinion, be sufficiently served if we direct the Court dealing with the criminal charges against the respondents to conclude the proceedings as expeditiously as possible but in any case within a period of one year from the date of this order. We hope and trust that the Trial Court will take effective steps to ensure that the witnesses are served, appear and are examined. The Court may for that purpose adjourn the case for no more than a fortnight every time an adjournment is necessary. We also expect the accused in the criminal case to co-operate with the trial Court for an early completion of the proceedings. We say so because experience has shown that trials often linger on for a long time on account of non-availability of the defense lawyers to cross-examine the witnesses or on account of adjournments sought by them on the flimsiest of the grounds. All that needs to be avoided. In case, however, the trial is not completed within the period of one year from the date of this order, despite the steps which the Trial Court has been directed to take the disciplinary proceedings initiated against the respondents shall be resumed and concluded by the Inquiry Officer concerned. The impugned orders shall in that case stand vacated upon expiry of the period of one year from the date of the order.

20. In the result, we allow these appeals but only in part and to the extent indicated above. The parties are left to bear their own costs."

8. For the purpose of brevity, this Court makes it very clear that if any criminal proceedings have been initiated after commencement of the departmental proceedings, the one year time limit mentioned supra will not apply to those cases and



the charges are established.

7. Accordingly, the writ petition is disposed of and the respondents shall take a decision in the light of the judgments (supra) of the Hon'ble Supreme Court and the judgment of this Court dated 06.01.2021 (especially Paragraph Nos.6 and 9).

8. It is made clear that the enquiry should not be stalled, citing the reason of non availability of documents. If the documents are taken by the DVAC or other Departments or filed before the Court, certified copies of those documents can be obtained by the Department and in the event of any such request made, other Departments are bound to furnish the same, in order to enable the concerned Department to proceed with the enquiry against the delinquent and DVAC or other Departments should not be a party for non-conduct of enquiry, No costs. Consequently, the connected miscellaneous petition is closed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

rsi

To

1. The Commissioner,
Adi Dravidar Welfare Department,
Ezhilagam, Chepauk,
Chennai - 600 005.
2. The District Adi Dravidar and Tribal Welfare Officer,
Villupuram District,
Villupuram.
3. The District Adi Dravidar and Tribal Welfare Officer,
Kallakurichi District,
Kallakurichi.

+1cc to Mr.G.Sankaran, Advocate, S.R.No.21825
+1cc to the Government Pleader, S.R.No.21437

W.P.No.8245 of 2021 and
W.M.P.Nos.8792 & 8793 of 2021

GPL(CO)
CT/23/07/2021