



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.11234 of 2021

and

W.M.P.Nos.11887 & 11888 of 2021

(Through Video Conferencing)

M.Balasubramanian

...Petitioner

Vs.

1. The Additional Chief Secretary to Government,
Home (Police - XVII) Department,
Secretariat, Chennai - 600 009.

2. The Director,
Fire and Rescue Services,
No.17, Rukmani Lakshmipathy Road,
Egmore, Chennai - 600 008.

...Respondents

Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of deemed suspension passed by the first respondent in G.O. (2D) No.332, Home (Police-XVII) Department, dated 20.11.2019 and the subsequent order passed by the first respondent in Letter No.65482/Police-XVII/20197, dated 26.09.2020 and quash the same and consequently direct the respondent to reinstate the petitioner into service.

For Petitioner : Mr.C.Munusamy

For Respondents: Mr.V.P.R.Elamparithi
Government Advocate

O R D E R

Though no counter has been filed in this Writ Petition, this Writ Petition is being disposed after considering the arguments of the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents.

2. This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of deemed suspension passed by the first respondent in G.O. (2D) No.332, Home (Police-XVII) Department,



dated 20.11.2019 and the subsequent order passed by the first respondent in Letter No.65482/Police-XVII/20197, dated 26.09.2020 and quash the same and consequently to direct the respondent to reinstate the petitioner into service.

WEB COPY

3. The petitioner was placed under suspension by the first respondent vide G.O.(2D) No.332, Home (Police-XVII) Department, dated 20.11.2019 with effect from 08.11.2019. After the said suspension order was passed, the petitioner has sent representations dated 21.01.2020, 20.04.2020 and 20.08.2020 with a request to revoke the suspension and also to enhance the subsistence allowances. By the impugned Letter No.65482/Police-XVII/2019-7, dated 26.09.2020, the first respondent has accepted the request of the petitioner insofar as the enhancement of subsistence allowances from 50% to 75% with effect from the date of issue of the said order. However, the first respondent has rejected the request of the petitioner to revoke the order of suspension in G.O. (2D) No.332, Home (Police-XVII) Department, dated 20.11.2019.

4. Appearing for the petitioner, the learned counsel submits that this issue is no longer res integra and is covered by plethora decisions of this Court and that of the Hon'ble Supreme Court in Ajay Kumar Choudhary Vs. Union of India though its Secretary and Another, 2015 (7) SCC 291 and in State of Tamil Nadu, rep. by secretary to Government (Home) Vs. Promod Kumar, IPS and Another, 2018 (17) SCC 677.

5. The learned counsel for the petitioner also drawn attention to an order dated 14.11.2019 passed by this Court in the case of O.Baskaran Vs. The Additional Director General of Police (L&O) and Another, in W.P.No.5874 of 2017 and to an order dated 06.03.2020 passed by this Court in N.Annapoorani Vs. The District Collector, Dharmapuri District, in W.P.No.23238 of 2020.

6. It has been now categorically held by these decisions that restrictions placed in G.O.Ms.No.40, Personnel and Administrative Reforms (N) Department, dated 30.01.1996 cannot be enforced in the light of the decisions of the Hon'ble Supreme Court in Ajay Kumar Choudhary Vs. Union of India though its Secretary and Another, 2015 (7) SCC 291 and in State of Tamil Nadu, rep. by secretary to Government (Home) Vs. Promod Kumar, IPS and Another, 2018 (17) SCC 677.

7. Considering the fact that the petitioner has been placed under suspension with effect from 08.11.2019, and even though the criminal proceeding has been initiated against the petitioner, the respondents are directed to reinstate the petitioner into service in any non-sensitive post where the



petitioner will not get any opportunity to tamper with evidence against him in the criminal proceeding that is pending against the petitioner, within a period of two months from the date of receipt of a copy of this order.

WEB COPY

8. It appears that no disciplinary proceeding has been initiated against the petitioner and therefore, the respondents are also directed to initiate disciplinary proceedings within a period of three months from the date of receipt of a copy of this order and complete the same within a period of nine months thereafter.

9. The Department of Vigilance and Anti-Corruption, Coimbatore, is directed to complete the investigation and take it to its logical end in the criminal proceedings initiated against the petitioner by filing charge sheet if the case is made out, within a period of twelve months from the date of receipt of a copy of this order.

10. This Writ Petition is disposed with the above observations. No cost. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

jen

To

1. The Additional Chief Secretary,
Home (Police - XVII) Department,
Government of Tamil Nadu,
Secretariat, Chennai - 600 009.

2. The Director,
Fire and Rescue Services, No.17,
Rukmani Lakshmipathy Road,
Egmore, Chennai - 600 008.

+1cc to Mr.C.Munusamy, Advocate, S.R.No.54444

+1cc to the Government Pleader, S.R.No.54666

W.P.No.11234 of 2021
and

W.M.P.Nos.11887 & 11888 of 2021

BP(CO)

RGA(29/11/2021)