



IN THE HIGH COURT OF JUD9ICATURE AT MADRAS

DATED: 10.11.2021

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P. No.13613 of 2020

R.Pachainayagi

... Petitioner

Vs

1. The District Collector,
Coimbatore District,
Coimbatore - 18.
2. The Commissioner,
Panchayat Union Office,
Pollachi (North),
Coimbatore District.
3. The personal Assistant to
Collector (Nutrition Meal),
Coimbatore District,
Coimbatore.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus calling for the records in the order bearing in Na.Ka.No.84/2019/Q2 dated 22.2.2020 passed by respondent No.1 and quashing the same, with consequential direction to the respondents to reinstate the petitioner with immediate effect into the service of the respondents in the same place

For Petitioner : Mr.P.Pugalenth

For Respondents: Mr.V.Manohar
Government Advocate - R1 & R3
Mr.M.Elumalai - R2

ORDER

The brief facts which necessitated the filing of the Writ Petition are stated hereunder:

The petitioner was appointed as a Noon Meal Organiser in the Government Higher Secondary School, Kolapatti, Coimbatore District on 25.10.1993. While she was working, there was an altercation with the neighbours on 26.01.2020, which led to the



registration of FIR and registration of a criminal case under Sections 147, 148, 294(b), 323, 324 and 506(ii) I.P.C. against the husband of the petitioner and others including the petitioner herein. There was also a counter case by the husband of the petitioner against other neighbours and similar IPC sections have been invoked against them. In the criminal case registered against the husband of the petitioner, the petitioner is shown as third accused.

2. The petitioner was arrested by the jurisdictional police on 28.01.2020, remanded to judicial custody and was subsequently released on bail. As the petitioner having been incarcerated, was placed under suspension vide impugned order dated 22.02.2020. The petitioner, after lapse of considerable time, submitted a representation on 28.08.2020 requesting the authority to revoke the suspension and reinstate her in service. According to the petitioner that a simple altercation and quarrel with the neighbours had resulted in filing of a criminal case against her and her husband, her subsequent arrest.

3. When the matter is taken up for hearing today, learned counsel for the petitioner would submit that despite a representation dated 28.08.2020 and subsequent oral representations to the authorities, there has been no response from the authorities as yet and no review has been done in respect of prolonged suspension. The suspension was necessitated only because of the criminal case registered against her as a consequence of the wordy quarrel between the petitioner's family members and her neighbour's family members. There was no complaint against the petitioner otherwise in her discharge of duties as a Noon Meal Organiser. Therefore, the learned counsel would submit that the prolonged suspension is liable to be revoked and the petitioner may be reinstated in service.

4. Mr.V.Manohar, learned Government Advocate appearing for R1 and R3 and Mr.M.Elumalai, learned counsel appearing for R2 would submit that admittedly the petitioner was arrested on the basis of the registration of the criminal case and therefore the Department had no choice except to place her under suspension.

5. However, when the Court has confronted whether there was any review done in the case, there was no affirmative answer. However, it is not in dispute that there was no complaint against the petitioner in her discharge of duties as Noon Meal Organiser and suspension was only because of the criminal case registered against her.

6. This Court considered the submissions and perused the limited materials that are made available on record.



7. The suspension of the petitioner became imperative, as the petitioner was rightly or wrongly arrested on registration of the criminal case against her and others. Therefore, this Court cannot find fault with the administration placing her under suspension vide order dated 22.02.2020. But at the same time, this Court is unable to appreciate as to why the suspension of the petitioner has been prolonged for more than 18 months without any kind of review being done in the matter. This is particularly so, that the Criminal case registered against the petitioner appeared to be a fall out of a common place quarrel between neighbours, which unfortunately led to the registration of the criminal complaint.

8. In matters like this, it is incumbent upon the authorities to review the suspension periodically, so that the employee need not be kept under suspension for an indefinite period of time and particularly in this case, the employee comes from marginal section and being employed as a last grade servant.

9. It is trite to quote the law laid down by the Hon'ble Supreme Court in the case of Ajay Kumar Choudhary V. Union of India through its Secretary and another ((2015) 7 SCC 291):-

21 We, therefore, direct that the currency of a Suspension Order should not extend beyond three months if within this period the Memorandum of Charges/Chargesheet is not served on the delinquent officer/employee; if the Memorandum of Charges/Chargesheet is served a reasoned order must be passed for the extension of the suspension. As in the case in hand, the Government is free to transfer the concerned person to any Department in any of its offices within or outside the State so as to sever any local or personal contact that he may have and which he may misuse for obstructing the investigation against him. The Government may also prohibit him from contacting any person, or handling records and documents till the stage of his having to prepare his defence. We think this will adequately safeguard the universally recognized principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognize that previous Constitution Benches have been reluctant to quash proceedings on the grounds of delay, and to set time limits to their duration. However, the imposition of a limit on the period of suspension has not been discussed in prior case law, and would not be contrary to the interests of justice. Furthermore, the direction of the Central Vigilance Commission that pending a criminal investigation



14. This Court has no hesitation in allowing the Writ Petition, as under no circumstances such protracted suspension can be justified.



15. In the above circumstances, the impugned order dated 22.02.2020 is hereby set aside and the Writ Petition is allowed. The second respondent is directed to reinstate the petitioner forthwith. No costs.

WEB COPY

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

sl

To

1. The District Collector,
Coimbatore District,
Coimbatore - 18.
2. The Commissioner,
Panchayat Union Office,
Pollachi (North),
Coimbatore District.
3. The personal Assistant to
Collector (Nutrition Meal),
Coimbatore District,
Coimbatore.

+1cc to the Government Pleader, S.R.No.58034

W.P. No.13613 of 2020

AD(CO)
SB(06/12/2021)