



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.19881 of 2021

and

W.M.P.Nos.21138 & 21139 of 2021

(Through Video Conferencing)

S.Samundeeswaran

... Petitioner

Vs

The Divisional Manager,
Construction and Maintenance Highways Department,
Krishnagiri.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order of suspension passed in Pro.No.1467/2010/B5 dated 16.09.2010 and the consequential order in his Letter No.1467/2010/B3-2 dated 21.03.2017 by the respondent herein, quash the same and consequently direct the respondent herein to reinstate the petitioner in service subject to the outcome of the criminal case pending against him in Crime No.419 of 2010, Pochampalli Police Station with all attendant benefits.

For Petitioner : Mr.D.Baskar

For Respondent : Mr.L.S.M.Hasan Fizal
Government Advocate

ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent.

2. The petitioner was placed under suspension vide impugned order of suspension passed on 16.09.2010. The Petitioner had challenged the aforesaid order in W.P.No.43779 of 2016 which came to be disposed by an order dated 21.12.2016.



3. By the aforesaid order, this Court had directed the respondent to consider the representation of the petitioner in the light of the decision of the Hon'ble Supreme Court in Ajay Kumar Choudhary Vs Union of India and another, 2015 (7) SCC 291. Pursuant to the aforesaid order, the respondent has passed an order on 21.03.2017 and rejected the request of the petitioner for reconsideration of the decision taken to suspend the petitioner as the petitioner was arrested in a criminal offence and a criminal case was pending against the petitioner. Meanwhile, the petitioner has also approached this Court under Section 482 of Cr.P.C in Crl.O.P.No.4777 of 2016. By an order dated 05.12.2018, the aforesaid petition was disposed by directing the learned Judicial Magistrate to complete the proceedings in P.R.C.No.15 of 2015 by committing the case to the concerned Court, within a period of nine months from the date of receipt of a copy of the order.

4. Though in pursuance of the aforesaid order, the criminal case has been taken up before the concerned Court, the departmental authorities have not proceeded with the disciplinary proceedings by issuing any charge memo or proceeding further against the petitioner. This issue was also considered by this Court in W.P.No.16196 of 2018 dated 04.08.2021. This Court was pleased to allow this writ petition with the following observations:-

"14. Though more than six years have lapsed since then, nothing has progressed either in the disciplinary proceedings or in the criminal proceedings in S.P.L.Case No.15/2015 before the Chief Judicial Magistrate, Thiruvannamalai. Only one witness has been examined in S.P.L.Case No.15/2015 till September 2018. Details of further progress is not available. Nothing precluded the respondents to proceed with the disciplinary proceedings independently independent of the pending criminal proceedings in S.P.L.Case No.15/2015.

15. Considering the fact that the petitioner was placed under suspension as early as 10.11.2014 and considering the fact that the disciplinary proceeding has not been progressed, this Court is inclined to direct the respondents to re-induct the petitioner into any non-sensitive post away from the headquarters where the disciplinary proceedings is pending against the petitioner and when the petitioner cannot indulge in any alleged corruption, on or before 1st September, 2021."



5. The ratio in the above case squarely applies to the facts of this case. Accordingly, this Writ Petition is allowed in the light of the above observations. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

arb
To

The Divisional Manager,
Construction and Maintenance Highways Department,
Krishnagiri.

+lcc to the Government Pleader Sr.48516

W.P.No.19881 of 2021
and
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srg 05/10/2021