

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.01.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.17028 of 2020
and
W.M.P.No.21113 of 2020
(Heard through VC)

B.Kalimuthu

.. Petitioner

-vs-

1.The Chief Educational Officer,
Chief Education Office,
Tiruppur District.

2.The Head Master,
Government Boys Higher Secondary School,
Udumalpet,
Tiruppur District.

.. Respondents

Prayer: Petition filed under Article 226 of Constitution of India to issue a Writ of Mandamus directing the first respondent to revoke the order of suspension dated 27.12.2013 in Rc.No.8958/A3/2013 issued by the first respondent in light of the Judgment of the Hon'ble Supreme Court in Ajay Kumar Choudhary vs. Union of India reported in 2015 (7) SCC 291.

For Petitioner : Mr.Ali Hassan Khan

For Respondents : Mr.P.Raja
Government Advocate

ORDER

The prayer sought for in this writ petition is for a direction to the first respondent to revoke the order of suspension dated 27.12.2013 in Rc.No.8958/A3/2013 issued by the first respondent in the light of the judgment of the Hon'ble Supreme Court in Ajay Kumar Choudhary vs. Union of India reported in 2015 (7) SCC 291.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

3. It is represented by the learned counsel appearing for the petitioner that the criminal case registered against the petitioner has been entered into a compromise. Though the petitioner has been acquitted from the criminal case based on the compromise memo, there is no bar for the departmental proceedings to go on, as 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.

4. The petitioner's request for revocation of suspension shall be considered in the light of the judgments 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 *State of TN vs. Promod Kumar IPS and another*, reported in AIR 2018 SC 4060. The petitioner shall be placed in non sensitive post.

5. After pronouncing the order, it is represented by the learned counsel for the petitioner that subsistence allowance had not been regularly given to the petitioner. Mr.P.Raja, learned Government Advocate would submit that instructions have been given to the Treasury department to pay the subsistence allowance to the petitioner including arrears in case of reinstatement and thereafter to proceed with the enquiry and pass final orders. The enquiry shall be commenced, if not already commenced and shall go 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.

6. With the above directions, the writ petition is disposed of. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (C.O.)

/True Copy/

Sub Assistant Registrar

To

- 1.The Chief Educational Officer,
Chief Education Office, Tiruppur District.
- 2.The Head Master, Government Boys Higher Secondary School,
Udumalpet, Tiruppur District.

+lcc to Mr.Alihassan Khan, Advocate SR.No.1567

+lcc to The Government Pleader Sr.No.1650

AKM/18.2.21 /2P-5C/

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