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IN THE HIGH COURT OF JUDICATURE AT MADRAS

D A T E D : 22.09.2021

C O R A M

THE HON'BLE MR.JUSTICE C.SARAVANAN

Writ Petition Nos.20278 of 2021
and
W.M.P.Nos.21530 of 2021

(Through Video Conferencing)

S.S.Vedhanandam

...Petitioner

Vs.

The Commissioner,
Vellore City Municipal Corporation,
Corporation Office, Vellore-9,
Vellore District.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records made in ROC No.C1/3864/2018 dated 26.08.2021 on the file of the Respondent herein and quash the same as illegal and Direct the Respondent to provide duty as Junior Assistant in the Respondent Corporation.

For Petitioner : Mr.R.Sankarasubbu

For Respondents : Mrs.P.Shanthi
Standing Counsel

O R D E R

The Petitioner was placed under suspension by an order dated 25.07.2018 pursuant to a criminal case registered against the Petitioner in Crime No.471 of 2018 for an offence under Section 147, 148, 294(b), 323, 307, 506(ii) of IPC r/w Section 25(1)(a) of the Women Harassment Act, 1959. The Respondent has however not issued any charge memo though the Petitioner was placed under suspension. As per the suspension order dated 25.07.2018, the Respondent has stated that the Petitioner will be paid



subsistence allowance as is admissible under Rule 53(i) of the Fundamental Rules.

2. Appearing on behalf of the Petitioner, the learned counsel for the Petitioner submits that against the said criminal proceedings, the Petitioner obtained an interim stay from this Court by an order dated 26.02.2020 in CrI.O.P.No.32491 of 2019. The request of the Petitioner for reinstating him into service has been rejected on the ground that the criminal case in Crime No.471 of 2018 is pending against him.

3. Appearing on behalf of the Respondent, the learned standing counsel for the Respondent submits that the Respondent cannot be reinstated the Petitioner into service on the ground that the criminal case is pending against him. The Respondent further submits that the petitioner is prolonging the criminal proceedings by obtaining an interim stay. It is submitted that the Respondent are therefore unable to issue charge memo against the Petitioner in the disciplinary proceedings.

4. Heard the learned counsel for the Petitioner and the Respondent and perused the impugned order dated 25.07.2018.

5. The Hon'ble Supreme Court in Ajay Kumar Choudhary vs. Union of India reported in 2015(7) SCC 291, has held as under:-

'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/charge-sheet is not served on the delinquent officer/employee; if the memorandum of charges/charge-sheet 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 person concerned 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 recognised principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognise that the previous Constitution Benches have been reluctant to quash proceedings on the grounds of delay, and



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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, departmental proceedings are to be held in abeyance stands superseded in view of the stand adopted by us.'

6. The Petitioner has been charged with the offence under Sections 147, 148, 294(b), 323, 307, 506(ii) of IPC r/w Section 25(1)(a) of the Women Harassment Act, 1959 and a criminal case is pending against the Petitioner.

7. Nothing precludes the respondent from issuing a charge memo to the Petitioner even though a criminal proceedings is pending against the Petitioner. The Petitioner is a Junior Assistant with the Respondent Vellore City Municipal Corporation.

8. Considering the fact that the Petitioner has been placed under suspension from 25.07.2018 and since no charge memo has been issued till date to the Petitioner. The Respondent can be directed to proceed with the Disciplinary Proceedings by issuing an appropriate charge memo to the Petitioner.

9. In view of the same, the writ petition is disposed of by directing the Respondent to issue an appropriate charge memo to initiate a Disciplinary Proceedings against the Petitioner within a period of 45 days from the date of receipt of a copy of this order. In case the Respondent is unable to initiate any such proceedings within the time frame fixed by this Court, the Respondent is directed to reinstate the Petitioner back into service and post the petitioner in any non sensitive post away from the place where the alleged crime was committed by the Petitioner. In case the Petitioner is eventually convicted, the provision of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955 can be pressed into service. Consequently, connected WMP is closed. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rrg



To

The Commissioner,
Vellore City Municipal Corporation,
Corporation Office,
Vellore-9,
Vellore District.

+1cc to M/s.P.Shanthi, Advocate, S.R.No.49281

+1cc to the Government Pleader, S.R.No.49017

W.P.No.20278 of 2021

PM(CO)
RGA(05/10/2021)