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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2021

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.22805 of 2021

(Through Video Conferencing)

G.Velmurugan

...Petitioner

Vs

The District Collector,
Erode, Erode District.

...Respondent

Prayer : Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the respondent vide Rc.No.3750/2021/A3 dated 05.02.2021 and to quash the same and consequently direct the respondent to revoke the order of suspension and reinstate the petitioner in service with all attendant benefits.

For Petitioner : Mr.S.Vijayakumar

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

ORDER

Mr.V.P.R.Elamparithi, learned Government Advocate takes notice on behalf of the respondent.

2. The petitioner was placed under suspension on 05.02.2021. Thereafter, the petitioner has sent a representation dated 15.07.2021 to the respondent with a request to reinstate the petitioner. The petitioner appears to have been placed under suspension pursuant to the complaint filed by one S.Alimullah of Erode District. Pursuant to which, an FIR came to be registered against the petitioner on 02.02.2021 vide FIR No.3/AC/2021.

3. It is the case of the petitioner that frivolous complaint has filed pursuant to which the petitioner has been placed under suspension.

4. Appearing on behalf of the petitioner, the learned counsel submits that though the petitioner has placed under



suspension as early as 05.02.2021, the respondent has neither initiated any departmental proceedings nor have proceeded further with the criminal proceedings pursuant to FIR No.3/AC/2021 dated 02.02.2021. The learned counsel for the petitioner further submits that the petitioner is entitled to be reinstated in the light of the decision of the Hon'ble Supreme Court in Ajay Kumar Choudhary Vs Union of India, (2015) 7 SCC 291.

5. The learned counsel for the petitioner has also placed reliance on the decision of the Hon'ble Supreme Court in State of Tamil Nadu Vs Promod Kumar IPS and another, 2018 (17) SCC 677.

6. Appearing on behalf of the respondent, the learned Government Advocate submits that the petitioner was involved in demanding bribe pursuant to which the respondent has placed the petitioner under suspension and investigations are on and therefore the request of the petitioner to be reinstated cannot be considered at this stage.

7. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent. I have perused the impugned suspension order and the request of the petitioner dated 15.07.2021 for reinstatement.

8. The petitioner has been placed under suspension as early as 05.02.2021. The respondent is duty bound to complete the departmental proceedings within a period of three months as per the decision of the Hon'ble Supreme Court in Ajay Kumar Choudhary case referred to supra. In Promod Kumar I.P.S case, the Hon'ble Supreme Court has stated that there is no justification in keeping the Government servant under prolonged period of suspension.

9. Considering the above, this Writ Petition is disposed by directing the respondent to issue appropriate charge memo to initiate departmental proceedings against the petitioner within a period of three months from the date of receipt of a copy of this order. In case the respondent is unable to initiate departmental proceedings against the petitioner within the aforesaid period, the petitioner shall be allowed to rejoin duty.

10. The respondent will ensure that the petitioner is not reinstated in the same place as he was working earlier. The petitioner may be shifted to any non-sensitive post where the petitioner will not get an opportunity to either tamper with the evidence against him in the proposed departmental proceedings or in the criminal proceedings.



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11. The petitioner is also directed to cooperate with the respondent in the proposed departmental proceedings and in the criminal proceedings. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

arb

To

The District Collector,
Erode, Erode District.

+1cc to Mr.S.Vijayakumar, Advocate SR.No.54705

+1cc to the Government Pleader SR.No.55378

W.P.No.22805 of 2021

CP(CO)
RVM(29/11/2021)