



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD)No.1129 of 2021
(Through Video Conference)

S.Senthilkumar

... Petitioner

Vs

1.The Joint Director (Personal),
School Education Department,
St. George Fort, Secretariat,
Chennai.

2.The Chief Educational Officer,
Dindigul District, Dindigul.

3.The District Educational Officer,
School Education,
Dindigul District, Dindigul.

4.The Headmaster,
Government Higher Secondary School,
Chinnagandhipuram,
Dindigul District.

... Respondents

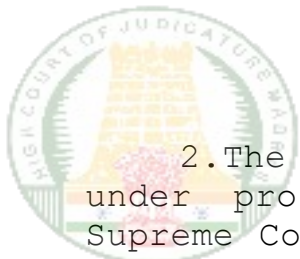
PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 1st respondent vide his proceedings in Na.Ka.No.056831/C3/E3/2020, dated 23.12.2020 and quash the same as illegal and consequently direct the 1st respondent to revoke the petitioner's suspension and reinstate the petitioner in service.

For Petitioner : Mr.A.Balaji

For Respondents : Mr.N.Shanmuga Selvam
Additional Government Pleader

O R D E R

The petitioner, while serving as Teacher in Government Higher Secondary School, Chinnagandhipuram, Palani Taluk, was placed under suspension by the first respondent herein, through an order dated 20.09.2017. The petitioner's request for revocation of his suspension was rejected by the respondents through the impugned order dated 23.12.2020 and hence, the present writ petition.

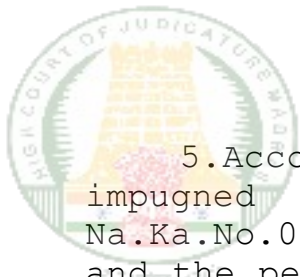


2.The guidelines governing a Government employee to be kept under prolonged suspension, has been dealt with the Hon'ble Supreme Court in **Ajay Kumar Choudhary v. Union of India, (2015) 7 SCC 291** at page 303, in the following manner:-

"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 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."

3.The petitioner is aggrieved against his prolonged suspension. Apparently, the suspension cannot unjustifiably prolonged, except in accordance with the mandated guidelines as held in the **Ajay Kumar Choudhary's case (supra)**. In this background, it would be appropriate for the respondent to consider the petitioner's request, seeking for revocation of his suspension.

4.In the instant case, the learned counsel for the petitioner submitted that neither the suspension has been revoked nor a reasoned order has been passed for extension of suspension. As such, the conduct of the respondents in failing to pass such a reasoned order for extension is against the ratio laid down in **Ajay Kumar Choudhary's case (supra)** and therefore, the suspension ~~order is not sustainable.~~



5. Accordingly, this Writ Petition stands allowed and the impugned order passed by the first respondent herein in Na.Ka.No.056831/C3/E3/2020, dated 23.12.2020, is hereby quashed and the petitioner is granted liberty to make fresh representation seeking for reconsideration of the revocation of the suspension order. On such representation, the respondents are directed to reinstate the petitioner forthwith. It is needless to point out that in case, the subsistence allowance has not been paid to the petitioner during the period of suspension, the same shall also be paid to the petitioner at least within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(T & P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

TM

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To:

- 1.The Joint Director (Personal), School Education Department,
St. George Fort, Secretariat, Chennai.
- 2.The Chief Educational Officer, Dindigul District, Dindigul.
- 3.The District Educational Officer, School Education,
Dindigul District, Dindigul.
- 4.The Headmaster, Government Higher Secondary School,
Chinnagandhipuram, Dindigul District.

+1 CC to M/s.GP (SR-2403[F] dated 29/01/2021)

Order made in
W.P. (MD)No.1129 of 2021
25.01.2021

DKS (CO)

TR(17.02.2021) 3P 6C