



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.07.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P (MD)No.6864 of 2020

and

W.M.P (MD)Nos.6270, 6271 & 6273 of 2020

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A.Syed Mohamed

... Petitioner

vs.

1.The Director General,
Highways Department,
76, Sardar Patel Road,
Guindy,
Chennai.

2.The Assistant Director (H),
Highways Research Station,
Regional Laboratory,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings No.2002/Con.3(2)/2019, dated 09.07.2019 and proceedings Order No.2002/Kamukam 3(2)/2019, dated 20.03.2020 and quash the same as illegal and consequently directing the first respondent herein to reinstate the petitioner in post of Assistant Engineer in Highways Department with all monetary benefits.

For Petitioner : Mr.I.Abrar MD Abdullah

For Respondents : Mr.P.Subbaraj
Government Advocate

ORDER

The petitioner has filed the present Writ Petition, to quash the proceedings No.2002/Con.3(2)/2019, dated 09.07.2019 and proceedings Order No.2002/Kamukam 3(2)/2019, dated 20.03.2020 and to direct the first respondent to reinstate him in post of Assistant Engineer in Highways Department with all monetary benefits.

2.According to the petitioner, he was appointed as Assistant Engineer, Traffic Laboratory, Chennai, on 10.03.2016 and transferred to the second respondent Office on 09.06.2018. While so, the petitioner married one Aafrin Fathima on 11.11.2018. Based on the complaint given by the father-in-law of the petitioner, due to family dispute, the petitioner was arrested and remanded to judicial custody on 06.07.2019 and a case has been registered in Crime No.244 of 2019. In order to wreak vengeance, the petitioner's father-in-law



informed the arrest of the petitioner to the superior officers of the petitioner. Subsequently, the first respondent, by proceedings, dated 09.07.2019, placed the petitioner under suspension. The petitioner gave a representation to the respondents to revoke his suspension. Since no order has been passed, the petitioner filed a Writ Petition in W.P(MD)No.2920 of 2020 and this Court, by an order, dated 14.02.2020, directed the first respondent therein to consider the representation of the petitioner, dated 16.10.2019. While so, the first respondent, by proceedings dated 20.03.2020, passed the impugned order stating that suspension could not be revoked for the reason that the petitioner was kept under judicial custody for a criminal case and the said criminal case is pending. Challenging the same, the petitioner has come up with the present Writ Petition.

3.The learned counsel appearing for the petitioner submitted that the criminal case registered against the petitioner is due to dispute with his wife and her family members. The long period of suspension is causing mental agony to the petitioner and casting social stigma on him and prayed for allowing the Writ Petition.

4.The respondents filed counter-affidavit.

5.The learned Government Advocate appearing for the respondents submitted that due to family dispute, the petitioner was arrested and remanded to judicial custody on 06.07.2019 and orders of suspension and extension of the same were based on the gravity of the charges against the petitioner. In the criminal case, trial is in progress and prayed for dismissal of the Writ Petition.

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

7.From the materials available on record, it is seen that while the petitioner was working as Assistant Engineer in the second respondent Office, based on the complaint given by his father-in-law, the petitioner was arrested and remanded to judicial custody on 06.07.2019. Subsequently, the first respondent, by proceedings, dated 09.07.2019, placed the petitioner under suspension. The petitioner gave a representation to the respondents to revoke his suspension. Since no order has been passed, the petitioner filed a Writ Petition in W.P(MD)No.2920 of 2020 and this Court, by an order, dated 14.02.2020, directed the first respondent to consider the representation of the petitioner, dated 16.10.2019. The first respondent, by proceedings dated 20.03.2020, passed the impugned order stating that suspension cannot be revoked for the reason that the petitioner was kept under judicial custody for a criminal case and the said criminal case is pending. The Hon'ble Apex Court in the Judgment reported in **(2015) 7 SCC 291 [Ajay Kumar Choudhary Vs. Union of India and another]** held that when a delinquent employee given representation for revocation of suspension, the employer must



give valid reason, if the said representation is rejected and suspension is continued. The reason given by the first respondent is not valid. The Hon'ble Apex Court in the Judgment reported in **(2015) 7 SCC 291 [Ajay Kumar Choudhary Vs. Union of India and another]** held in paragraph No.22, as follows:-

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"22. So far as the facts of the present case are concerned, the Appellant has now been served with a Charge-sheet, and, therefore, these directions may not be relevant to him any longer. However, if the Appellant is so advised he may challenge his continued suspension in any manner known to law, and this action of the Respondents will be subject to judicial review."

The petitioner is kept under suspension from 09.07.2019. The disposal of the criminal case may be delayed for number of years and keeping a delinquent employee under suspension for a long time is deprecated by this Court and the Honourable Apex Court in number of cases. Paying subsistence allowance without extracting work will cause financial loss to the Department.

8. The criminal case registered against the petitioner relates to family dispute based on the complaint given by father-in-law of the petitioner. The criminal case registered against the petitioner has nothing to do with discharge of his official duty.

9. Considering the above facts, the petitioner is kept under suspension from 09.07.2019 and the reason given by the first respondent for rejecting the representation of the petitioner is not valid, the impugned orders, dated 09.07.2019 and 20.03.2020 passed by the first respondent are liable to be set aside and hereby set aside. The respondents are directed to reinstate the petitioner into service within a period of two weeks from the date of receipt of a copy of this order.

10. With the above directions, the Writ petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AE)

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/ /2021

Sub Assistant Registrar (CS)

ps

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

<https://hcservices.ecourts.gov.in/hcservices/>



correct copy, shall be the responsibility of the advocate / litigant concerned.

To

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Highways Department,
76, Sardar Patel Road,
Guindy,
Chennai.

2.The Assistant Director (H),
Highways Research Station,
Regional Laboratory,
Madurai.

+1 CC to M/s.SPL GP (SR-22666[F] dated 15/07/2021)

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RD(2.08.2021) 4P 4C