



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.06.2021

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. (MD) No.9131 of 2021

and

W.M.P (MD) No.6880 of 2021

S.Krishnan

...Petitioner

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Personal Assistant (Development),
to the Collector of Sivagangai District,
Sivagangai.

3.The Block Development Officer (Village Panchayat),
Sivagangai Union,
Sivagangai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the second respondent ie., the Personnel Assistant (Development) to Collector, Sivagangai, relating to his R.C.Q1/13983/2017-6 dated 15.07.2017 and quash the same and consequently direct the respondents to reinstate the petitioner into service forthwith as was done in the Collector's proceedings Roc.Q1/13983/2017 dated 01.04.2021 in respect of similar and identical case.

For Petitioner : Mr.S.Visvalingam

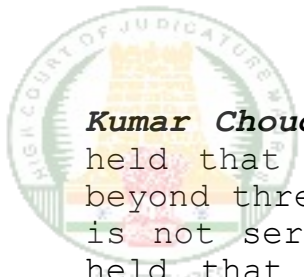
For Respondents : Mr.P.Thilak Kumar,

Standing Counsel for T.N. Government

O R D E R

The petitioner herein, was placed under suspension through the impugned order, dated 15.07.2017 on the ground that an enquiry with regard to grave charges is contemplated against him.

2.The learned counsel for the petitioner would state that apparently, the petitioner is placed under suspension for the past more than 3 years. The Hon'ble Supreme Court in the case of **Ajay**



Kumar Choudhary v. Union Of India reported in (2015) 7 SCC 291 had held that the currency of the suspension order should not extend beyond three months, if within this period the memorandum of charges is not served on the delinquent, officers/employee. It was further held that if the charges are served within the period of three months, a reasoned order must be passed for the extension of the suspension. However, in the case of the petitioner, the petitioner was originally suspended on 15.07.2017 and the charge memo was filed only on 30.04.2019, which is apparently after the period of three months as stipulated in **Ajay Kumar Chaudhary's case** (cited supra).

3. The learned counsel appearing for the petitioner would further state that in similar circumstances in W.P(MD)No.7577 of 2019, this Court vide order dated 12.03.2021, has quashed the suspension order and ordered reinstatement of the petitioner into service.

4. At this juncture, the learned Standing Counsel for the respondents would submit that the charges against the petitioner are severe in nature, since the amount of misappropriation involved is huge. Pursuant to the charge memo, disciplinary action has been initiated against the petitioner.

5. Heard the learned counsel appearing on both sides and perused the materials placed available on record.

6. The stage of the departmental enquiry may not have relevance in the present writ petition since the order of suspension is put under challenge. In view of the process adopted by the respondents in keeping the petitioner under prolonged suspension, particularly, when it is opposed to the law laid down by the Hon'ble Apex Court in **Ajay Kumar Chaudhary' case** (cited supra), the suspension order itself cannot be sustained.

7. Accordingly, the impugned order of the second respondent in R.C.Q1/13983/2017-6 dated 15.07.2017, is hereby quashed. Consequently, the respondents herein are directed to reinstate the petitioner forthwith back into service, in any event, within a period of one week from the date of receipt of this order.

8. The Writ Petition stands allowed. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



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.

WEB COPY

To

- 1.The District Collector,
Sivagangai District,
Sivagangai.
- 2.The Personal Assistant(Development),
to the Collector of Sivagangai Districti,
Sivagangai.
- 3.The Block Development Officer(Village Panchayat),
Sivagangai Union,
Sivagangai.

Order made in
W.P. (MD) No.9131 of 2021
Dated:
02.06.2021

AS (09.06.2021) 3P 4C