



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 09.07.2021**

CORAM:

**THE HONOURABLE MS.JUSTICE V.M.VELUMANI
W.P(MD)No.10073 of 2021**

WEB COPY

K.Kalanjiarani

... Petitioner

vs.

1.The Principal Secretary/Commissioner of Treasuries
and Accounts,
Integrated Complex for Finance Department,
3rd Floor, Veterinary Hospital Campus,
Anna Salai, Nandanam,
Chennai - 600 035.

2.The Treasury Officer,
District Treasury,
Ramanathapuram.

... 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 of the second respondent ie., the Treasury Officer, Ramanathapuram in his impugned memo No.8465/2021/A2, dated 18.03.2021 and quash the same and consequently direct the respondents to reinstate the petitioner into service forthwith.

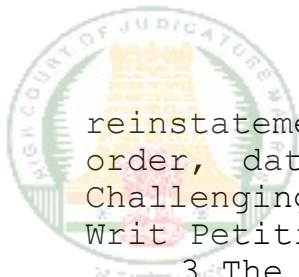
For Petitioner : Mr.S.Visvalingam

For Respondents : Mr.K.S.Selva Ganesan
Government Advocate

ORDER

The petitioner has filed the present Writ Petition, to quash the impugned memo, dated 18.03.2021, passed by the second respondent and to direct the respondents to reinstate her into service forthwith.

2.According to the petitioner, while she was working as Accountant in the second respondent Office placed under suspension on 20.11.2020, as per the proceedings of the second respondent, based on the Vigilance and Anti-Corruption case registered against her in F.I.R.No.7 of 2020, dated 19.11.2020. However, no charge sheet has been filed and no disciplinary proceeding has been initiated till date. Hence, the petitioner has made a representation on 10.03.2021, seeking to revoke the suspension order and also



reinstatement into service. The second respondent, by the impugned order, dated 18.03.2021, rejected the request of the petitioner. Challenging the same, the petitioner has come up with the present Writ Petition.

3.The learned Government Advocate appearing for the respondents submitted that the petitioner was caught red handed while receiving bribe in the trap laid by the Director of Vigilance and Anti-Corruption Department. The petitioner was arrested and criminal case was registered against her. In view of the same, the petitioner was suspended from service pending criminal case in the public interest and in contemplation of disciplinary proceeding with regard to grave misconduct of the petitioner. In view of the pendency of the criminal case, the petitioner's request for revocation of suspension was rejected. There is no error in the said order and prayed for dismissal of the Writ Petition.

4.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents and perused the entire materials available on record.

5.From the materials available on record, it is seen that the petitioner was arrested by the Director of Vigilance and Anti-Corruption on 19.11.2020 while receiving bribe. FIR was registered against her. The petitioner was suspended from service, by an order, dated 20.11.2020. The petitioner gave a representation, dated 10.03.2021, for revocation of suspension. The said representation was rejected stating that the decision will be taken for revocation of suspension only depending on the outcome of the criminal case. The reason given by the second respondent is not valid. It is the contention of the learned counsel appearing for the petitioner that till today, charge-memo in the disciplinary proceeding and the charge-sheet in the criminal case is not served on the petitioner. 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. In the impugned order, it is not the case of the second respondent that the petitioner will influence the witness, tamper with the documents and stall the progress of the criminal case. The reason given by the second respondent for rejecting the representation 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:-

"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."

6.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.

7.In view of the above, the impugned order, dated 18.03.2021 passed by the second respondent is liable to be set aside, as the reason given by the second respondent is not valid and hereby set aside. The petitioner is under suspension from 20.11.2020, pending criminal case and in contemplation of disciplinary proceeding. Till date, no charge-sheet is filed and no charge-memo is served on the petitioner. Applying the said ratio of the Honourable Apex Court reported in **(2015) 7 SCC 291 [Ajay Kumar Choudhary Vs. Union of India and another]**, the order of suspension is set aside. The respondents are directed to reinstate the petitioner in service within a period of two weeks from the date of receipt of a copy of this order. If the respondents are of the view that the petitioner will tamper with documents and influence the witness, it is open to the respondents to transfer the petitioner to some other place.

8.With the above directions, the Writ petition is allowed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

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

To

1.The Principal Secretary/Commissioner of Treasuries
and Accounts,
Integrated Complex for Finance Department,
3rd Floor, Veterinary Hospital Campus,
Anna Salai, Nandanam,
Chennai - 600 035.

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



2.The Treasury Officer,
District Treasury,
Ramanathapuram.

+1 CC to M/s.SPL GP (SR-20573[F],SR-22100[F] dated 12/07/2021)

+2 CC to M/s.S.VISVALINGAM, Advocate (SR-20411[F], SR-22251[F] dated 13/07/2021)

W.P (MD) No.10073 of 2021
09.07.2021

RD(27.07.2021) 4P 6C