



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.10861 of 2021

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and

W.M.P(MD)Nos.8485 & 8486 of 2021

S.Veluchamy

... Petitioner

Vs.

1.The Director General of Police (L & O),
Dr.Radhakrishnan Salai,
Mylapore,
Chennai-600 004.

2.The Inspector General of Police,
Central Zone,
Tiruchirappalli.

3.The Deputy Inspector General of Police,
Trichy Range,
Tiruchirappalli.

4.The Superintendent of Police,
Karur District,
Karur.

... Respondents

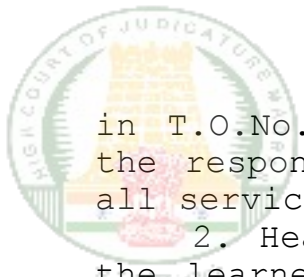
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of suspension made by the third respondent in R.O.43/2020 C.No.E-B2/11/2020, dated 29.02.2020 and the consequential order of suspension passed by the fourth respondent in T.O.No.115/2020 C.No.A4/3993/2020, dated 10.03.2020 and quash the same and direct the respondents to reinstate the petitioner into the service with all service benefits including monetary benefits.

For Petitioner : Mr.M.Muthappan

For Respondents : Mr.P.Subbaraj
Government Advocate

ORDER

The present writ petition is filed by the petitioner to quash the order of suspension passed by the third respondent in R.O.43/2020 C.No.E-B2/11/2020, dated 29.02.2020, and the consequential order of suspension passed by the fourth respondent



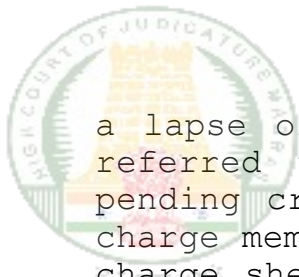
in T.O.No.115/2020 C.No.A4/3993/2020, dated 10.03.2020 and direct the respondents to reinstate the petitioner into the service with all service benefits including monetary benefits.

2. 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.

3. According to the petitioner, while he was working as Inspector of Police, Velayuthampalayam Police Station, on 16.02.2020 at about 14.15 hours, there was an accident and he registered a case in Cr.No.39 of 2020 for the offences under Sections 279, 337 and 304(A) of IPC. On 17.02.2020, another case in Cr.No.41 of 2020 for the offences under Section 379 of IPC was registered by the petitioner for theft of lorry. One Abishek Maran, who is the owner of the vehicle involved in Cr.No.39 of 2020, has given a complaint against the petitioner before the Vigilance and Anti Corruption Department that the petitioner demanded a sum of Rs.10,000/- and Senthilkumar, Head Constable, demanded Rs.5,000/- for sending the vehicle for inspection. Based on the said complaint, the Vigilance and Anti Corruption Department arranged for a trap and arrested Senthilkumar, who had demanded and accepted the bribe. First Information Report was registered in Cr.No.1 of 2020 under the Prevention of Corruption Act showing the petitioner as first accused. The third respondent, vide proceedings, dated 29.02.2020 suspended the petitioner from service. Consequently, the fourth respondent also issued an order of suspension in T.O.No.115/2020 C.No.A4/3993/2020, dated 10.03.2020. There was no departmental proceedings initiated against the petitioner. Seeking to review the order of suspension, the petitioner has sent a representation, dated 20.10.2020, but the same has not been considered so far. Hence, the petitioner has come forward with this writ petition.

4. From the above materials, it is seen that the petitioner was suspended from service with effect from 29.02.2020 in view of the criminal case registered against him. Subsequently, order of suspension was not reviewed and order of suspension was not extended. According to the petitioner, no disciplinary proceedings initiated against him and no charge sheet is filed in the criminal case. The respondents did not consider the representations of the petitioner, dated 20.06.2020, 04.09.2020, 23.10.2020 and 04.01.2021 for revocation of suspension. This Court and the Hon'ble Apex Court have deprecated the practice of keeping an employee under protracted suspension for a long period.

5. The Hon'ble Apex Court in **Ajay Kumar Choudhary Vs. Union of India** reported in **(2015) 7 SCC 291** has held that if any suspension order is issued, the authorities competent must ensure that if any proceedings has been initiated against the suspended employee and the same must be concluded within a reasonable period of time without causing any undue delay. If employer decides to continue the suspension, they must record reasons for the same. In the present case, the order of suspension is not revoked even after



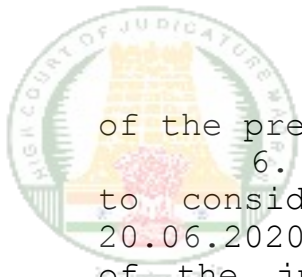
a lapse of 1 ½ years. The Hon'ble Apex Court in the judgment referred to above has held that when an employee is suspended pending criminal case or departmental proceedings, charge sheet or charge memo must be served on the employee within three months. If charge sheet or charge memo is not served within three months, the order of suspension has to be revoked. If charge sheet or charge memo is served on the employee, the remedy available to the employee is to give a representation to the employer, who has to consider the same and pass order either revoking the order of suspension or continuing the suspension. The said order is subject to judicial review. The relevant portion of said judgment in Paragraphs 21 and 22 are extracted herein:-

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.

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 ratio in the above judgment is squarely applicable to the facts

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



of the present case.

6. In view of the above, the respondents are directed to consider the representations of the petitioner, dated 20.06.2020, 04.09.2020, 23.10.2020 and 04.01.2021 in the light of the judgment of the Hon'ble Apex Court in **Ajay Kumar Choudhary Vs. Union of India** reported in **(2015) 7 SCC 291**, and pass orders on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

7. With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Records)

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/ /2021

Sub Assistant Registrar(CS)

am

To

1.The Director General of Police (L & O),
Dr.Radhakrishnan Salai,
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Chennai-600 004.

2.The Inspector General of Police,
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Tiruchirappalli.

3.The Deputy Inspector General of Police,
Trichy Range,
Tiruchirappalli.

4.The Superintendent of Police,
Karur District,
Karur.

+1 CC to M/s.M.MUTHAPPAN, Advocate (SR-20819[F] dated 01/07/2021)

+1 CC to M/s.SPL GP (SR-21051[F] dated 02/07/2021)

W.P. (MD) No.10861 of 2021

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MGJ (27.08.2021) 5P 7C

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