



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD) No.7577 of 2019

and W.M.P. (MD) No.6038 of 2019

(Through Video Conference)

S.Sankaran

...Petitioner

Vs.

1. The District Collector,
Sivagangai District.

2. The Block Development Officer,
Sivagangai Panchayat Union,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in his proceedings in Roc.Q1/13983/2017-1 dated 15.07.2017 and Roc.Q1/13983/2017-1 dated 06.02.2018 quash the same as illegal and consequently direct the respondents to reinstate the petitioner into service as Zonal Deputy Block Development Officer.

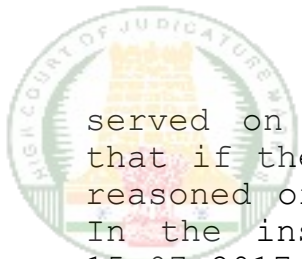
For Petitioner	: Mr.T.Kumar
For R-1	: Mr.P.Mahendran Additional Government Pleader
For R-2	: Mr.M.Pandiarajan Additional Government Pleader

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 to grave charges is contemplated against him. This suspension order came to be subsequently extended after about seven months, until further orders.

2. The learned counsel for the petitioner has raised several grounds among which, the prolonged suspension is claimed to be unjustifiable. The basis on which the petitioner has been placed under suspension is in connection with the criminal case registered against him in Crime No.553 of 2017 on the file of the Sivagangai Police Station for offences under Sections 406, 409, 420 & 120(B) of Indian Penal Code. Apparently, the petitioner is placed under suspension for the past more than 3 ½ years.

3. 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. In the instant case, the petitioner was originally suspended on 15.07.2017 and the charge memo was filed only on 12.12.2017, which is apparently after the period of three months as stipulated in **Ajay Kumar Chaudhary's case** (cited supra).

4. Likewise, when the respondents have extended the order of suspension on 06.02.2018, there was no reason assigned for taking such a decision to extend the suspension period until further orders. Both these procedures adopted by the respondents, in belatedly serving the charge memo on the petitioner and extending the suspension order, without assigning reasons, are opposed to the dictum laid down by the Hon'ble Apex Court in **Ajay Kumar Chaudhary' case** (cited supra).

5. At this juncture, the learned Additional Government Pleader submitted 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 and the petitioner also filed his further explanation pursuant to the Enquiry Officer's report. 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 petitioner 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.

6. Accordingly, the impugned order in Roc.Q1/13983/2017-1 dated 15.07.2017 and Roc.Q1/13983/2017-1 dated 06.02.2018 is 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.

7. The Writ Petition stands allowed. However, there shall be no order as to costs. Consequently, connected W.M.P.(MD) No.6038 of 2019 is closed.

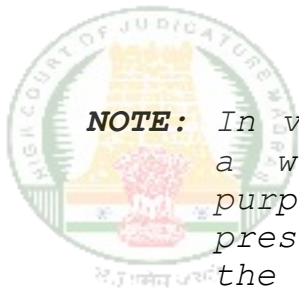
Sd/-

Assistant Registrar (CSII)

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/ /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.

2. The Block Development Officer,
Sivagangai Panchayat Union,
Sivagangai District.

+1 CC to M/s.T.KUMAR, Advocate (SR-10806[F] dated 12/03/2021)

+1 CC to M/s.SPL GP (SR-11156[F] dated 15/03/2021)

W.P. (MD) No.7577 of 2019
12.03.2021

MJ (CO)
KB (08.04.2021) 3P 5C