



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 29.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P(MD)No.13715 of 2020

and

W.M.P(MD)No.11389 of 2020

S.Murugesan

... Petitioner

Vs

1.The Director of Public Health
and Preventive Medicine,
Office of the Director
of Public Health and Preventive Medicine
Chennai - 600 006.

2.The Deputy Director of Health Service,
Office of the Deputy Director of Health Services,
Paramakudi,
Ramanathapuram District.

... Respondents

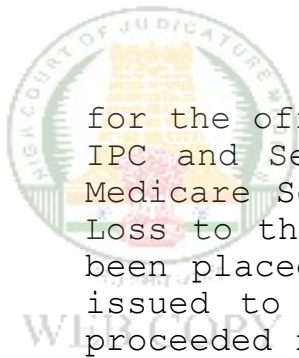
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus to call for the records relating to the impugned suspension order passed by the second respondent vide R.No.255/A1/2020, dated 23.01.2020 and quash the same and consequently, direct the respondents to reinstate the petitioner in service.

For Petitioner : Mr.D.Shanmugaraja Sethupathi
For Respondents : Mr.V.Nirmal Kumar,
Government Advocate

ORDER

This writ petition is filed as against the order of suspension passed by the second respondent on 23.01.2020.

2.The learned Counsel for the petitioner submits that the petitioner has been working as Record Clerk in the Office of the Deputy Director of Health Service, Paramakudi. While so, on the complaint given by one Jeganathan, Duty Medical Officer, Government Hospital, Paramakudi, a case in Crime No.18 of 2020 was registered



for the offence under Sections 147, 294(b), 332, 253, 323 and 506(i) IPC and Section 4 of the Tamil Nadu Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage or Loss to the Property) Act 2008 and consequently, the petitioner has been placed under suspension on 23.01.2020 and charge memo was also issued to him on 23.01.2020 itself. However, the enquiry has not proceeded further.

3.The learned Counsel for the petitioner further submits that the criminal case was registered due to the dispute between the petitioner and his colleague in the office. However the petitioner has been placed under suspension nearly for the past two years. He has also placed reliance on **Ajay Kumar Choudhary Vs Union of India** reported in **(2015) 7 SCC 291** and submits that the order of suspension cannot be extended beyond a period of three months without assigning any reason. In this case, no reason has been assigned for the extending the suspension period.

4.The learned Government Advocate appearing for the respondent submits that though charge memo has been issued on 23.01.2020 itself, the enquiry could not be proceeded due to the pendency of the writ petition and if any time limit is fixed, they would proceed with the enquiry and conclude the same within in the time limit.

5.This Court paid its anxious consideration to the rival submission and perused the materials placed on record.

6. It is seen that the order of suspension has been passed on 23.01.2020 and for almost two years, the enquiry has not been completed and there is no valid reason for placing the petitioner under suspension nearly for two years. The Hon'ble Supreme Court in the case of **Ajay Kumar Choudhary Vs Union of India** reported in **(2015) 7 SCC 291** has held as follows:

"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 server any local or personal investigation against him. The Government may also prohibit him from contacting any person, or holding records and documents till the stage of his 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".

7.From the above it is clear that where the charge memo is served on the delinquent, a reasoned order must be passed for the extension of the suspension period. In this case no such order has been passed by the respondents. Therefore, the respondents are not justified themselves in extending the petitioner's suspension beyond a period of three months and therefore, it opposed against the ratio laid down by the Hon'ble Supreme Court in **Ajay Kumar Choudhary's** case cited supra.

8.In the light of the above discussion, this writ petition is disposed of with a direction to the respondents to pass a detailed order assigning reasons for extending the suspension order and it is open to the respondents to proceed with the enquiry and complete the same within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (As)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

dsk

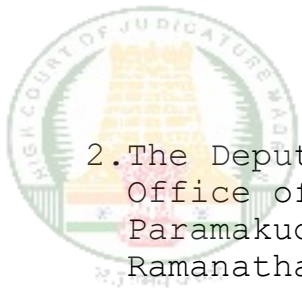
Note:

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 Director of Public Health
and Preventive Medicine,
Office of the Director
of Public Health and Preventive Medicine
Chennai - 600 006.

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



2.The Deputy Director of Health Service,
Office of the Deputy Director of Health Services,
Paramakudi,
Ramanathapuram District.

WEB COPY

+1 CC to M/s.D.SHANMUGARAJA SETHUPATHI, Advocate (SR-36686[F] dated 01/12/2021)

+1 CC to M/s.SPL GP (SR-36504[F] dated 30/11/2021)

W.P(MD)No.13715 of 2020
29.11.2021

MGJ(27.01.2022) 4P 5C