



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD)No.4805 of 2018

and

W.M.P(MD) No.4818 and 4819 of 2018

(Through Video Conference)

A.Venkatachalam

... Petitioner

Vs

The District Manager,
Tamilnadu State Marketing Corporation Ltd.,
(TASMAC)
Tirunelveli,
Tirunelveli District.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent in his proceedings Na.Ka.No.A1/1049/2011 dated 25.04.2011 and quash the same and consequently, direct the respondent to reinstate the petitioner back into service with all attendant and consequential benefits.

For Petitioner : Mr.V.Karthikeyan
For Respondent : Mr.B.Jameel Arasu,
Standing Counsel

O R D E R

The petitioner, while serving as Shop Salesman of Retail Shop No.10694, was placed under suspension by the respondent herein, through an order dated 25.04.2011, which is impugned in the present writ petition. The petitioner's request for revocation of his suspension was not considered by the respondent and hence, the present writ petition.

2.The guidelines governing a Government employee to be kept under prolonged suspension, has been dealt with the Hon'ble Supreme Court in **Ajay Kumar Choudhary v. Union of India, (2015) 7 SCC 291** at page 303, in the following manner:-



"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."

3.The petitioner is aggrieved against his prolonged suspension of nine years. Apparently, the suspension cannot unjustifiably prolonged, except in accordance with the mandated guidelines as held in the **Ajay Kumar Choudhary's case (supra)**. In this background, it would be appropriate for the respondent to consider the petitioner's request, seeking for revocation of his suspension.

4.In the instant case, the learned counsel for the petitioner submitted that neither the suspension has been revoked nor a reasoned order has been passed for extension of suspension. As such, the conduct of the respondent in failing to pass such a reasoned order for extension is against the ratio laid down in **Ajay Kumar Choudhary's case (supra)** and therefore, the suspension order cannot be sustained.

5.Accordingly, this Writ Petition stands allowed and the impugned order passed in Na.Ka.No.A1/1049/2011 dated 25.04.2011, is hereby quashed and the respondent is directed to reinstate the petitioner forthwith. It is needless to point out that in case, the subsistence allowance has not been paid to the petitioner during the period of suspension, the same shall also be paid to the petitioner at least within a period of four weeks from the date of receipt of



a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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// True Copy //

/ /2021

Sub Assistant Registrar(CS)

cp

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:

The District Manager,
Tamilnadu State Marketing Corporation Ltd.,
(TASMAC)
Tirunelveli,
Tirunelveli District.

+1 CC to Mr.V.KARTHI KEYAN, Advocate (SR-1042[F] dated 19/01/2021)

Order made in
W.P. (MD)No.4805 of 2018
18.01.2021

VB (03.02.2021) 3P 3C