



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD) No.21775 of 2018

and

W.M.P (MD) Nos.19696 & 19697 of 2018, 5000 & 17421 of 2019

(Through Video Conference)

P.Paramasivam

...Petitioner

Vs.

1.The Director General of Police,
Post Box No.601, Dr.Radhakrishnan Salai,
Mylapore, Chennai 600 004

2. The Superintendent of Police,
Kanyakumari District, Kanyakumari.

3. The Deputy Inspector General of Police,
Tirunelveli Region, Tirunelveli.

... 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 relating to the proceedings of the Impugned Order in DO No.78/2009 & C No.L1/4102/2009 dated 29.01.2009 on the file of the 2nd respondent and quash the same and further directing the respondents to reinstate the petitioner in service.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondents : Mr.V.P.M.Vaishnavi,
Government Advocate

O R D E R

The petitioner, while serving as Head Constable in Prohibition and Enforcement Wing, Thuckalay was placed under suspension by the second respondent herein, through an order dated 29.01.2009, which is impugned in the present writ petition. The petitioner's representation dated 19.02.2010 seeking for revocation of his suspension was not considered by the first respondent and hence the present writ petition.

<https://hcservices.courts.gov.in/hcservices> 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 twelve 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 first respondent to consider the petitioner's representation, seeking for revocation of his suspension.

4. Accordingly, a Writ of Mandamus is hereby issued with a direction to the first respondent herein to consider the petitioner's representation dated 29.01.2009, wherein the petitioner has sought for revocation of the suspension order in D.O.No.78/2009 & C No.L1/4102/2009 dated 29.01.2009, in accordance with the decision of the Hon'ble Supreme Court in the case of **Ajay Kumar Choudhary (supra)**, as expeditiously as possible, in any event, within a period of one week from the date of receipt of a copy this order.

<https://hcservices.courts.gov.in/hcservices/> petition stands disposed of accordingly. However,



there shall be no order as to costs. Consequently, connected miscellaneous petitions are 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.

To

1. The Director General of Police,
Post Box No.601, Dr.Radhakrishnan Salai,
Mylapore, Chennai 600 004
2. The Superintendent of Police,
Kanyakumari District, Kanyakumari.
3. The Deputy Inspector General of Police,
Tirunelveli Region, Tirunelveli.

+1 CC to M/s.G.PRABHU RAJADUAI, Advocate (SR-2954[F] dated 02/02/2021)

+1 CC to M/s.SPL GP (SR-2798[F] dated 02/02/2021)

W.P.(MD) No.21775 of 2018
01.02.2021

NA(CO)
KB(11.03.2021) 3P 6C