



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P. (MD) No.22306 of 2019

and

W.M.P (MD) No.19078 of 2019

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Arumugapillai

...Petitioner

Vs.

1.The District Forest Officer,
Cum Wild Life Warden,
Kanniyakumari Division,
Nagercoil.

2.The Range Officer,
Kulasekharam Forest Range,
Tamil Nadu Forest Department,
Kanniyakumari District.

3.The Inspector of Police,
Kulasekharam Police Station,
Kulasekharam,
Kanniyakumari 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 relating to the impugned Suspension order passed by the 1st respondent Proc.No.E2/1164/2019, dated 30.05.2019 and the consequential order of retaining petitioner on service vide E2/1164/2019, dated 31.05.2019, quash the same as illegal and may consequently, direct the 1st respondent to permit the petitioner from retire from service with all eligible benefits.

For Petitioner : Mr.A.Balakrishnan

For Respondents : Mrs.J.Padmavathi Devi

Special Government Pleader

ORDER

The petitioner, while serving as Forest Watcher, Kulasekharam Range, was placed under suspension by the first respondent herein, through an order dated 30.05.2019 and retained by order dated 31.05.2019, which are impugned in the present writ petition. The petitioner's representation dated 08.10.2019 seeking for revocation of his suspension was not considered by the first 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

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



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 one and half 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 08.10.2019, wherein the petitioner has sought for revocation of the suspension order passed by the first respondent vide his proceedings in Proc.No.E2/1164/2019, dated 30.05.2019 and the consequential order of retention vide No.E2/1164/2019, dated 31.05.2019, 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.



5. The Writ petition stands disposed of accordingly. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

TM

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 District Forest Officer,
Cum Wild Life Warden,
Kanniyakumari Division,
Nagercoil.

2.The Range Officer,
Kulasekharam Forest Range,
Tamil Nadu Forest Department,
Kanniyakumari District.

3.The Inspector of Police,
Kulasekharam Police Station,
Kulasekharam,
Kanniyakumari District.

+1 CC to M/s.SPL GP (SR-5668[F] dated 17/02/2021)

+1 CC to M/s.A.BALAKRISHNAN, Advocate (SR-5549[F] dated 17/02/2021)

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KK (05.03.2021) 3P 6C