

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.5400 of 2022

J.Janakiraman

...Petitioner

vs.

The Assistant Director of Survey and Land Records,
Chepauk, Chennai,

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the respondent in Re.A5/0081/2020 dated 07.01.2020 and to quash the same and to issue consequential directions to the respondent to reinstate the petitioner in service subject to the outcome of Cr.No.01/Ac/2020/CC-II, in the Court of Special Judge for Cases under the Prevention of Corruption (Amendment) Act, 2018, Chennai.

For Petitioner : Mr.T.Dharani

For Respondent : Mr.Haja Nazirudeen,
Additional Advocate General
for Mrs.S.Anitha,
Special Govt. Pleader

O R D E R

By consent, this Writ Petition is taken up for final disposal. The petitioner, challenging the impugned suspension order passed by the respondent in Re.A5/0081/2020 dated 07.01.2020, and for a consequential direction to the respondent to reinstate the petitioner in service subject to the outcome of Cr.No.01/Ac/2020/CC-II, in the Court of Special Judge for Cases under the Prevention of Corruption (Amendment) Act, 2018, Chennai, has filed the present writ petition.

2. The case of the petitioner is that on the basis of a complaint lodged by one J.Ranson, the defacto complainant for

the purpose of issuing patta in the name of Tr.G.Sudhakar, for which the petitioner has demanded and accepted Rs.5,000/- as illegal gratification and appeared to have committed an offence punishable under Section 7 of the Prevention of Corruption (Amendment) Act, 2018. Thereafter, vide impugned order dated 07.01.2020, the petitioner was placed under suspension with effect from 07.01.2020. Challenging the same, the petitioner has filed the present writ petition.

3. The learned counsel for the petitioner submits that the petitioner is kept under prolonged suspension for nearly two years and the investigation in respect of criminal case has been completed and charge sheet has been filed in the Court of Special Judge for Trial of Cases under the Prevention of Corruption Act, Salem and numbered as Cr.No.01/AC/2020/CC-II and the petitioner has also submitted a representation dated 03.01.2022 to the respondent seeking revocation of the order of suspension and since the representation of the petitioner did not evoke any kind of response, he has filed the present writ petition and also prays that appropriate orders may be passed for expeditiously disposal of the criminal case.

4. On a reference made to the two conflicting judgments rendered by the Division Benches of this Court on a challenge to the order of suspension, the Hon'ble Full Bench of this Court in W.P.Nos.2165 of 2015 and 21628 of 2018 dated 15.03.2022, has answered as under:

(i) The judgment of the Apex Court in the case of Ajay Kumar Choudhary, supra, does not lay down absolute proposition of law that an order of suspension cannot be continued beyond the period of three months if the memorandum of charges / charge-sheet has not been served within three months, or if memorandum of charges/charge -sheet is served without reasoned order of extension.

(ii) The judgment in R.Balaji, supra, has no reference to the earlier judgments of co-equal strength and is thereby rendered per incuriam.

(iii) The issue of challenge to the order of suspension should be analyzed on the facts of each case, considering the gravity of the charges and the rules applicable.

(iv) Revocation of suspension with a direction to the employer to post the delinquent in a non-sensitive post cannot be endorsed or directed as a matter of course. It has to be based on the facts of each case

and after noticing the reason for the delay in serving the memorandum of charges/charge-sheet.

5. The learned Additional Advocate General for the respondent submitted that the representation submitted by the petitioner for revocation of the suspension order will be considered by the authorities concerned.

6. In view of the above, this Court directs the respondent to consider the petitioner's representation dated 03.01.2022 seeking revocation of the suspension order and pass orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order. The learned Special Judge for Cases under the Prevention of Corruption (Amendment) Act, 2018 is also directed to expedite the trial in Cr.No.01/AC/2020/CC-II pending on its file and pass judgment on the same, as expeditiously as possible.

7. With the above direction, this Writ Petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Jvm

To

The Assistant Director of Survey and Land Records,
Chepauk, Chennai.

Copy to:

The Special Judge for Cases under the Prevention of
Corruption (Amendment) Act, 2018,
Chennai.

+1cc to Mr.T.Dharani, Advocate, S.R.No.20534

+1cc to the Government Pleader, S.R.No.20653

W.P.No.5400 of 2022

SKM[co]
NSK 05/04/2022