

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.3089 of 2021

and

WMP.No.3482 of 2021

G.Anbalagan

..Petitioner

vs.

The Deputy Inspector General of Police,
Vellore Range, Vellore.

..Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the respondents in connection with the impugned order passed by the respondents in connection with the impugned order passed by the respondents in C.No.B1/3074/2020 R.O.No.95/2020 dated 08.03.2020 and the subsequent rejection order passed by him in C.No.B1/3074/2020 dated 30.07.2020 and to quash the same and direct the respondent to reinstate the petitioner into service with all attendant benefits.

For Petitioner : Mr.S.Sivakumar
For Respondents : Mr.T.Arunkumar,
Additional Government Pleader

O R D E R

The petitioner, challenging the impugned suspension order passed by the respondent dated 08.03.2020 and the consequential rejection order dated 30.07.2020, has filed the present writ petition.

2. The case of the petitioner is that while he was serving as Special Sub Inspector of Police, Thiruvannamalai Town Crime Police Station, he was implicated in a criminal case in Cr.No.03/2020 and he was placed under suspension, by invoking Rule 3(e)(1)(i) and 3(e)(ii) of the Tamil Nadu Police Subordinate Service (Discipline & Appeal) Rules. Challenging the same, the petitioner has filed the present writ petition.

3. The learned counsel for the petitioner submits that the petitioner has been kept under prolonged suspension and in the light of the decision of the Hon'ble Supreme Court in *Ajay Kumar Choudhary v. Union of India* [(2015) 7 SCC 291], he seeks for revocation of the suspension order. The learned counsel for the petitioner further submits that the criminal case is pending before the jurisdiction Criminal Court for the alleged commission of offence under Section 7 of the Prevention of Corruption Act, 1988.

4. The decision relied on by the petitioner in *Ajay Kumar Choudhary* case cannot be accepted on the ground that 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, Hon'ble Full Bench of this Court in W.P.Nos.2165 of 2015 and 21628 of 2018 dated 15.03.2022 [*P.Kannan v. Commissioner of Municipal Administration, Chennai and Others*], 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. In the light of the above, this Court permits the petitioner to make a fresh representation to the respondent within a period of two weeks from the date of receipt of a copy of this order and on such representation being made, the respondent is directed to consider the petitioner's representation seeking revocation of the suspension order, in the light of Full Bench decision of this Court cited supra and pass orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

6. With the above direction, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

True Copy//

Sub Assistant Registrar

Jvm

To

The Deputy Inspector General of Police,
Vellore Range, Vellore.

+1cc to Mr.S.Sivakumar, Advocate, S.R.No.40186

+1cc to the State Government Pleader, S.R.No.40703

W.P.No.3089 of 2021

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