



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No. 3406 of 2022
and
W.M.P.No.3505 of 2022

S.Senthil @ Senthilkumar

.. Petitioner

Vs.

The District Educational Officer,
Office of the District Educational Officer,
Villupuram,
Villupuram District.

.. 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 entire records relating to the order dated 29.06.2021 made in Rc.No.2064/A1/2021 on the file of the respondent herein and quash the same and consequently, reinstate the petitioner with all attendant monetary benefits by treating the period of suspension as duty period.

For Petitioner : Mr.C.Munusamy

For Respondent : Mr.V.Manoharan, AGP

ORDER

The relief sought for in the present writ petition is to call for the entire records relating to the order dated 29.06.2021 made in Rc.No.2064/A1/2021 on the file of the respondent and quash the same and consequently, reinstate the petitioner with all attendant monetary benefits by treating the period of suspension as duty period.

2. The case of the petitioner is that the petitioner appointed as Night Watchman at the Government Higher Secondary



School, Kandamanadi, Villupuram District on 23.11.2012 and promoted to the post of Record Clerk on 22.12.2017. Due to registration of criminal case against the petitioner arose consequent to the money dispute between the petitioner and one Venkatesan, the respondent had suspended the petitioner from service by impugned order dated 29.06.2021. Challenging the same, the present writ petition is filed.

3. The learned counsel for the petitioner has submitted that the petitioner has been working in the respondent/department from the year 2012 without any remarks. There is a money dispute between the petitioner and one Venkatesan, who claims that the petitioner is liable to pay a sum of Rs.25,000/-, for which an FIR has been registered against the petitioner in Crime No. 1030/2021 under Sections 294(b), 324 and 506 (ii) of IPC on the file of the Villupuram Taluk Police Station, Villupuram. The learned counsel for the petitioner has further submitted that the petitioner had approached this Court in Crl.OP.No. 2364 of 2022 and obtained Anticipatory Bail by order of this Court dated 02.02.2022.

4. The contention of the learned counsel for the petitioner is that as per Rule 17(e) of Tamil Nadu Civil Services (Discipline and Appeal) Rules, the appointing authority can suspend the services of an employee only if there is any charge is pending against the delinquent official, but in the present case, there is no enquiry or charge is pending against the petitioner, therefore, the impugned suspension order is in violation of statutory provisions and the same is liable to be set aside.

5. On the other hand, the learned Additional Government Pleader appearing for the respondent has submitted that the charges were framed against the petitioner and disciplinary proceedings also initiated against the petitioner and the same is pending.

6. Heard both sides and perused the materials available on record.

7. Admittedly, based on a complaint given by one Venkatesan against the petitioner, alleging cheating of money, a criminal case was registered in Crime No. 1030/2020-2021 under Section 294(b), 324, 506(ii) IPC @ 294(b), 324 IPC on the file of Villupuram Taluk Police Station. Based on the said complaint and arrest, the petitioner was suspended from service by the respondent under Rule 17(e) of Tamil Nadu Civil Services (Discipline and Appeal) Rules. Subsequently, the petitioner had approached this Court and obtained anticipatory in Crl.OP.No. 2364 of 2022, dated 02.02.2022.



8. It is clear from the records that the petitioner was arrested based on a private dispute and he was also granted anticipatory bail by this Court. Considering the said reasons, this Court is of the view that the revocation of impugned suspension order would not cause any prejudice to the department. Thus, this Court is inclined to interfere with the impugned suspension order. Accordingly, the following order is passed;

- i. Impugned suspension order dated 29.06.2021 passed by the respondent is quashed.
- ii. It is open to the respondent to place the petitioner in any of non sensitive post.
- iii. It is open to the petitioner to place fresh materials before the enquiry officer, if any disciplinary proceedings are pending against him.

9. With the above, the writ petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

The District Educational Officer,
Office of the District Educational Officer,
Villupuram.

+1cc to the Government Pleader, S.R.No.19498

W.P.No. 3406 of 2022
and
W.M.P.No.3505 of 2022

AK-II(CO)
SU(10/05/2022)