

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.3574 OF 2020
AND
W.M.P NO.4205 OF 2020

T.Gandhimathi

...Petitioner

Vs.

- 1.State, rep. by
The Inspector General of Registration
Registration Department
No.100, Santhome High Road
Chennai-600 028.
- 2.The Deputy Inspector General of Registration
Registration Department,
Salem-636 001
- 3.The District Registrar
Registration Department
Namakkal District-637 003.
- 4.The Sub Registrar
Mohanoor Sub Registrar Office
Namakkal District-637 015.

...Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India, seeking to issue a Writ of Mandamus, calling for the records relating to the order of the 2nd respondent vide proceedings No.2275/A1/2019, dated 31.05.2019 and rejection order of the 1st respondent in Letter No.22026/V2/2019-I, dated 12.12.2019 and to quash the same and consequently direct the 1st respondent to reinstate the petitioner into service with continuity of service and all other attendant benefits.

For Petitioner : Mr.K.S.Vivekanandam

For Respondents : Mr.T.Arunkumar
Additional Government Pleader

ORDER

By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

2. This writ petition has been filed seeking to quash the proceedings of the 2nd respondent vide Proc. No.2275/A1/2019, dated 31.05.2019 and rejection order of the 1st respondent in Letter No.22026/V2/2019-I, dated 12.12.2019 and also to direct the 1st respondent to reinstate the petitioner in service with continuity of service and all other attendant benefits.

3. The case of the petitioner in brief:

While the petitioner was working as Junior Assistant, a criminal case was registered for the alleged offence under Section offence under Section 7 of P.C Act and subsequently, she was sent to judicial custody. In view of the involvement in the criminal case, the respondent placed the petitioner under suspension under Rule 17(e) (I) (ii) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955, by impugned proceedings dated 31.05.3019. So far, no departmental proceedings has been initiated against her and she is entitled for revocation of suspension order in the light of the Ajaykumar Choudry versus Union of India case.

4. The learned counsel appearing for the petitioner would submit that the writ petitioner has been under the prolonged suspension for more than 3 years and hence, he seeks a direction to the first respondent to consider the representation of the petitioner afresh, as per the decision of the Hon'ble Supreme Court.

5. The learned Additional Government Pleader appearing for the respondents would submit that based on the fresh representation of the petitioner, the first respondent will be taken note of the said facts of the case and take proper decision and pass appropriate orders in accordance with law.

6. The Hon'ble Full Bench of this Court, in the case of P.Kannan Vs The Commissioner for Municipal Administration and Others passed in W.P.Nos.2165 of 2015 and 21628 of 2018 dated 15.03.2022 held as follows:

(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.

7. In the light of the aforesaid decision, this Court is inclined to direct the petitioner to make a fresh representation to the first respondent to consider her request for revocation of suspension. On such representation, the first respondent is directed to consider the petitioner's request and pass appropriate orders on its own merits and in accordance with law, as expeditiously as possible, within a period of twelve weeks from the date of receipt of a copy of this order.

8. With the above direction, this Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar

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To

1.The Inspector General of Registration
Registration Department
No.100, Santhome High Road
Chennai-600 028.

2.The Deputy Inspector General of Registration
Registration Department,
Salem-636 001

3.The District Registrar
Registration Department
Namakkal District-637 003.

4.The Sub Registrar
Mohanoor Sub Registrar Office
Namakkal District-637 015.

+1cc to Mr.K.S.Vivekanandam, Advocate Sr.No.37094

+1cc to the Government Pleader Sr.No.37621

W.P.No.3574 of 2020
and
W.M.P No.4205 of 2020

SKM(CO)
RVM(14/07/2022)