



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.6947 of 2021

S.Selvendiran

...Petitioner

vs.

1.State of Tamil Nadu,

Rep by its Principal Secretary,
Personnel and Administrative Reforms (N) Department,
Fort St.George, Chennai-600 009.

2.Deputy General of Police / IG of Prison,

Prison and Correction Department,
Egmore, Chennai-600 008.

3.Deputy Inspector General of Prison,

Vellore Range, Vellore-632 002.

4.The Superintendent,

Central Prison, Cuddalore District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents 2 to 4 to consider the petitioner's representation dated 03.09.2020 to revoke the order of suspension dated 03.02.2019 passed by the fourth respondent by his proceedings No.2492/G1/2019 and reinstate the petitioner in service in the light of the decision of the Hon'ble Apex Court in Ajay Kumar Choudary's and in Circular Letter No.13519/N/2015-1 dated 23.07.2015 issued by the first respondent.

For Petitioner : Mr.S.Vinoth Kumar

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

O R D E R

The prayer in the writ petition is for a Mandamus directing the respondents 2 to 4 to consider the petitioner's representation dated 03.09.2020 to revoke the order of



suspension dated 03.02.2019 passed by the fourth respondent by his proceedings No.2492/G1/2019 and reinstate the petitioner in service in the light of the decision of the Hon'ble Apex Court in Any Kumar Choudary and in Circular Letter No.13519/N/2015-1 dated 23.07.2015 issued by the first respondent.

2. The grievance of the petitioner is that he was suspended as early as on 03.02.2019 and thereafter two years had passed and even now, no charge sheet has been filed and hence, the petitioner has made a representation to the respondents 2 and 4 to revoke the order of suspension and reinstate him in service and since the representation submitted by the petitioner did not evoke any kind of response, 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 therefore, prays for appropriate orders.

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 respondents 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 03.09.2020 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.

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

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

Jvm

To

1.The Principal Secretary,
State of Tamil Nadu,
Personnel and Administrative Reforms (N) Department,
Fort St.George, Chennai-600 009.

2.Deputy General of Police / IG of Prison,
Prison and Correction Department,
Egmore, Chennai-600 008.

3.Deputy Inspector General of Prison,
Vellore Range, Vellore-632 002.

4.The Superintendent,
Central Prison, Cuddalore District.

+1 CC to The Government Pleader sr 20636.

W.P.No.6947 of 2021

PMK (CO)
SP(05/04/2022)