



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.7236 of 2022

R.Geetha

...Petitioner

Vs.

1.The District Collector,
District Collector Office,
Namakkal District.

2.The Tahsildar,
Paramathi-Velur Taluk,
Namakkal District.

...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, seeking to issue a Writ of Mandamus, directing the first respondent to reinstate the petitioner in service by considering the petitioner's representation dated 17.02.2022.

For Petitioner : Mr.Deepan Uday

For Respondents: Mr.S.Prabhakaran
Government Advocate

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 issuance of Writ of Mandamus, to direct the 1st respondent to reinstate the petitioner in service by considering the petitioner's representation dated 17.02.2022.

3. The case of the petitioner in brief:

While the petitioner was working as Village Assistant, she was arrested on 08.10.2020 on the allegation that she had received bribe of Rs.4000/- for issuing patta transfer order. Based on the aforesaid allegation, the petitioner was suspended from service on 10.10.2020. As per the statement of the VAO and



FIR, the petitioner has not involved in any of that bribed activity. Therefore, the petitioner made a representation to the first respondent to reconsider the suspension order and reinstate her into service. But, the said representation was not considered till date. Hence, the instant writ petition.

4. The learned counsel appearing for the petitioner would submit that the writ petitioner has been under the prolonged suspension for more than 1-1/2 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 Government Advocate appearing for the respondents would submit that on the request made by the petitioner before the first respondent, 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.

Therefore, by taking note of the aforesaid decision of Hon'ble Full Bench of this Court, this Court is inclined to direct the



first respondent to consider the petitioner's representation dated 17.02.2022 on its own merits and in accordance with law and take appropriate decision, as expeditiously as possible, 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.

Sd/-
Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

uma

To

1.The District Collector,
District Collector Office,
Namakkal District.

2.The Tahsildar,
Paramathi-Velur Taluk,
Namakkal District.

+1cc to Mr.Deepan Uday, Advocate SR.No.21525

+1cc to Government Pleader SR.No.21334

W.P.No.7236 of 2022

PMK(CO)
GMY(18/04/2022)