

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.6675 of 2020
and
W.M.P No.7916 of 2020

A.Sathish

...Petitioner

Vs.

1. The State of Tamilnadu, rep. by
The Principal Secretary to Government
Housing and Urban Development Department
St. George Fort, Chennai.
2. The Director of Town and Country Planning
Directorate of Town and Country Planning
807, Annasalai, Chennai-2.

...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, seeking to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the 2nd respondent vide No.ROC No.14744/2019/K1 dated 04.12.2019 and to quash the same and to direct the 2nd respondent to reinstate the petitioner with back wages.

For Petitioner : Mr.S.Nagarajan

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 No.ROC No.14744/2019/K1 dated 04.12.2019 and also to direct the 2nd respondent to reinstate the petitioner in service with backwages.

3. The case of the petitioner in brief:

While the petitioner was working as Draughts Man Grade-III in the office of the Erode Local Planning Authority, Erode, a criminal case was registered for the alleged offence under Section 7 of P.C Act. 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 04.12.2019. So far, no departmental proceedings has been initiated against him and he 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 8 months and hence, he seeks a direction to the second 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 take 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 second respondent to consider his request for revocation of suspension. On receipt of such representation, the second 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 VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary to Government
Housing and Urban Development Department
St. George Fort, Chennai.
2. The Director of Town and Country Planning
Directorate of Town and Country Planning
807, Annasalai, Chennai-2.

+1cc to Mr.S.Nagarajan, Advocate, S.R.No.36402
+1cc to the Government Pleader, S.R.No.37620

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NRL[co]
NSK/13/07/2022