



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.NO.7971 OF 2022

AND

W.M.P.NO.7957 OF 2022

M.Navaneethakumar

...Petitioner

vs.

The Commissioner of Police,
Police Commissionerate,
Salem City,
Salem - 636 002.

...Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records leading to the issuance of suspension order bearing Ref.No.Na.Ka.Order No.1160/2014 dated 19.12.2014 issued by the Respondent herein, and quash the same.

For Petitioner : Mr.Adithya Reddy

For Respondent : Mrs.S.Anitha
Special Government Pleader

O R D E R

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 suspension order bearing Ref.No.Na.Ka.Order No.1160/2014 dated 19.12.2014 issued by the Respondent herein.

3. The case of the petitioner in brief:

While the petitioner was working as Sub Inspector of Police, he was suspended from service on 19.12.2014 by the respondent on the ground that the petitioner was involved in a criminal case for corruption under the Prevention of Corruption Act. However, the Tamil Nadu Police Subordinate Services (Discipline and



Appeal) Rules mandates such suspension only when there is a threat to public interest. The suspension of the petitioner is being continued for a prolonged period without any periodical review and valid grounds. Such prolonged suspension is against the law laid down by the Hon'ble Supreme Court. Further, this Court had already directed the respondent herein to review the suspension and consider the representations of the petitioner. However, the respondent has not followed the principles laid down by the Hon'ble Supreme Court or reviewed the suspension in accordance with law. Hence, the petitioner has filed this writ petition before this Court.

4. The learned counsel appearing for the petitioner would submit that the writ petitioner has been under the prolonged suspension for more than 7 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 in the case of *Ajay Kumar Choudhary v. Union of India*, [2015 (7) SCC 291].

5. The learned Special Government Pleader appearing for the respondent would submit that on the request made by the petitioner before the respondent, the 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.

WEB COPY

7. In view of the aforesaid submission and the decision of the Hon'ble Full Bench of this Court, this Court is inclined to pass the following order:

(i) the respondent is directed to consider the petitioner's representation dated 16.03.2017 and pass appropriate orders on his own merits and in accordance with law, as expeditiously as possible within a period of eight weeks from the date of receipt of a copy of this order.

(ii) Since the petitioner is in prolonged suspension, the Special Court, Salem is directed to dispose of the case in C.C No.560 of 2014, as expeditiously as possible.

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

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

uma

To

The Commissioner of Police,
Police Commissionerate,
Salem City,
Salem - 636 002.

+1cc to Mr.Adithya Reddy, Advocate, S.R.No.22589
+1cc to the Government Pleader, S.R.No.23033

W.P.No.7971 of 2022
and
W.M.P No.7957 of 2022

PL (CO)
PM/26/04/2022