



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.8315 of 2022
and
W.M.P.No.8288 of 2022

C.Soundararajan

... Petitioner

Vs.

The Assistant Director,
Survey & Land Records Department,
Collectorate Complex,
Salem District - 636 001.

... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent relating to Pro.ROC.No.A5/6805/2018 dated 06.09.2018, quash the same in the light of the judgment of the Hon'ble Apex Court in Ajay Kumar Choudary Vs. Union of India reported in (2015) 7 SCC 291 and to issue consequential directions to the respondent to reinstate the petitioner into service with consequential benefits.

For Petitioner : Mr.M.Sendhumadhavan

For Respondent : Mr.A.M.Ayyadurai
Government Advocate

ORDER

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

2. The writ petition has been filed seeking issue a Writ of Certiorarified Mandamus, quashing the impugned suspension order and to reinstate the petitioner into service with consequential benefits.

3. The case of the petitioner in brief:

The petitioner herein was working as Field Surveyor under the respondent department. A case was registered against him by the Vigilance and Anti-Corruption and he was arrested on 05.09.2018 and in view of the same, he was placed under



suspension vide order dated 06.09.2018. Subsequently, he was released on bail by the Special Court for Vigilance cases, Salem. Thereafter, the petitioner made representations to the respondent to review the said suspension order and last such representation is dated 09.02.2022. But the respondent did not consider the same and no order has been passed. Hence, he filed this instant writ petition before this Court.

4. Though this writ petition has been filed to quash the impugned suspension order, the learned counsel appearing for the petitioner submitted that the respondent may be directed to consider the representation of the petitioner, seeking to review the suspension order and to pass appropriate orders.

5. Mr.A.M.Ayyadurai, learned Government Advocate takes notice for the respondent submitted that the representation of the petitioner will be considered and appropriate orders will be passed by the authorities concerned, on its own merits and in accordance with law.

6. At this juncture, it is pertinent to note that the Hon'ble Full Bench of this Court, has passed order in the case of P.Kannan Vs The Commissioner for Municipal Administration and Others (W.P.Nos.2165 of 2015 and 21628 of 2018 dated 15.03.2022), wherein, it is 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. Therefore, in the light of the above decision of the Hon'ble Full Bench of this Court, this Court directs the respondent to consider the petitioner's representation dated 09.02.2022 and to pass orders on its own merits 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, the writ petition stands disposed of. No costs. Consequently, connected writ miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

ata/mst

To

The Assistant Director,
Survey & Land Records Department,
Collectorate Complex,
Salem District - 636 001.

+2ccs to Mr.M.Sendhumadhavan, Advocate, S.R.No.22970

+1cc to the Government Pleader, S.R.No.24117

W.P.No.8315 of 2022

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NSK 22/04/2022