



WEB COPY



W.A.No.1643 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2022

CORAM

THE HONOURABLE MR. JUSTICE **PARESH UPADHYAY**
and
THE HONOURABLE MRS. JUSTICE **V.BHAVANI SUBBAROYAN**

W.A.No.1643 of 2022
& C.M.P.No.11147 of 2022

1.The Principal Secretary to Government,
Labour Welfare and Skill Development
Department,
Secretariat, Chennai-600 009.

2.The Commissioner of Labour,
Labour Department,
Chennai-600 006.

3.The Joint Commissioner of Labour,
Labour Department,
Salem-8.

.. Appellants

Vs.

D.Lakshmi Narayanan

.. Respondent

Appeal filed under Clause 15 of the Letters Patent against the
order dated 09.09.2021 in W.P.No.19037 of 2021.

For Appellants .. Mr.V.Nanmaran,
Additional Government Pleader

For Respondent .. Mr.S.Vijayakumar



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JUDGMENT

(Delivered by PARESH UPADHYAY, J.)

Challenge in this appeal is made to the order dated 09.09.2021 recorded on W.P.No.19037 of 2021. This appeal is by the respondents/ State Authorities.

2. Learned Single Judge, has, in the writ petition filed by the present contesting respondent directed that, the writ petitioner be reinstated in service and be posted on non-sensitive post. The State has challenged the same.

3. Learned Additional Government Pleader has taken this Court extensively through the pleadings of matter including the policy of the State as contained in the communication dated 26.04.2016, where the officers are instructed how to deal with the cases of suspension of the officers who are under suspension. It is submitted that, discretion exercised by the learned single Judge, in the facts of this case, is erroneous and therefore the same be interfered with.



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4. On the other hand, learned Advocate for the respondent / writ petitioner has submitted that, the petitioner is facing trial for the offence, which according to him he has not committed, however that being the matter of trial that aspect need not be gone into, however it is the case of the writ petitioner that, continuance of suspension for no fault on his part is coming in his way and the discretion exercised by learned single Judge be not interfered with.

5. Having heard the learned advocates for the respective parties and having considered the material on record, this Court finds that, the grievance of the writ petitioner was to the effect that, he is facing suspension since February, 2018 and though more than four years have passed by this time, he is out of employment (though being paid subsistence allowance) and there is no certainty when the trial will be concluded. We find that, in this factual back ground when learned single Judge has thought it fit to exercise his discretion under Article 226 of the Constitution of India with a rider that let the petitioner be reinstated and posted on any non-sensitive post, according to us, the same can not be said to be an error apparent on face of record, which may justify exercise of powers by us in the intra-court appeal under Clause 15 of Letters Patent.



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6. For the above reasons, the writ appeal is dismissed. No costs.

Connected miscellaneous petition would not survive.

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(P.U., J.) (V.B.S., J.)
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