



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.10984 of 2021
and WMP.No.11626 of 2021

D.Kannan

..

Petitioner

vs.

1.The Home Secretary,
(Addl. Chief Secretary to the Govt.)
Government of Tamil Nadu,
Fort St.George, Chennai.

2.The Director General of Police, HOPF,
The Office of Director General of Police,
Radhakrishnan Salai,
Tamil Nadu, Chennai-600 004.

3.Chief Election Commissioner of India,
Nirvachansadan, Ashoka Road,
New Delhi-100 001.

..

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records relating to the impugned suspension order in G.O.(2D)No.71, Home (SC) Department dated 10.03.2021 on the file of the first respondent and to quash the same.

For Petitioner : Mr.K.Venkataramani, Senior Counsel
for M/s.S.Siva Shanmugam

For Respondents : Mr.R.Shunmugasundaram,
Advocate General
assisted by
Mrs.S.Anitha,
Special Government Pleader for R1 & R2

O R D E R

The petitioner, challenging the impugned order of suspension dated 10.03.2021, passed by the first respondent, has filed the present writ petition.



2. Mr.K.Venkataramani, learned Senior Counsel for the petitioner submits that the petitioner has been falsely implicated in the case in Crime No.1 of 2021 and he has not committed any grave offence as alleged by the respondents and therefore, the petitioner has submitted a representation to the respondents on 02.08.2021 seeking revocation of the suspension order. The learned Senior Counsel for the petitioner would further submit that the petitioner has been placed under prolonged suspension by the respondents to demoralize the petitioner and therefore, he seeks for revocation of the order of suspension and also undertakes to cooperate with the disciplinary proceedings as well as criminal proceedings before the jurisdictional Criminal Court.

3. Mr.R.Shumugasundaram, learned Advocate General for the respondents 1 and 2 has objected for revocation of the suspension order and submits that if any representation is made by the petitioner, the same will be considered in the light of the Full Bench decision of this Court in W.P.Nos.2165 of 2015 and 21628 of 2018 dated 15.03.2022 [P.Kannan v. Commissioner of Municipal Administration, Chepauk, Chennai and Others], wherein on a reference made to the two conflicting judgments rendered by the Division Benches of this Court on a challenge to the order of suspension, the Hon'ble Full Bench has answered as under:

(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."

4. In the light of the above submission made by the parties, this Court, without expressing anything on merits, directs the first respondent to consider the petitioner's representation dated 02.08.2021 in the light of the Full Bench decision of this



Court cited supra and pass appropriate orders on merits and in accordance with, as expeditiously as possible, within a period of six weeks from the date of receipt of a copy of this order. It is also made clear that, if any additional particulars sought to be furnished by the petitioner, the same shall be furnished to the respondents within a period of two weeks from the date of receipt of a copy of this order.

5. The Writ Petition stands disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

Jvm

To

- 1.The Home Secretary,
(Addl. Chief Secretary to the Govt.)
Government of Tamil Nadu,
Fort St.George, Chennai.
- 2.The Director General of Police, HOPF,
The Office of Director General of Police,
Radhakrishnan Salai,
Tamil Nadu, Chennai-600 004.
- 3.Chief Election Commissioner of India,
Nirvachansadan, Ashoka Road,
New Delhi-100 001.

+3cc Mr.S.Siva Shanmugam, Advocate, SR.No.27126 [25/04/2022]

W.P.No.10984 of 2021

NK(CO)
CB(20/04/2022)