



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.10857 of 2022

K.Vetrivel

... Petitioner

vs.

1.The Collector,
Krishnagiri District.

2.The Joint Director of Agriculture,
Krishnagiri District,
Collectorate Complex,
Krishnagiri.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to engage the petitioner's services as Assistant Technology Manager (ATM) pursuant to the orders dated 31.08.2020 and in the light of the representation dated 03.03.2022 submitted by the petitioner within a time frame fixed by this Court.

For Petitioner : Mr.V.Vijay Shankar

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

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 issue a Writ of Mandamus, directing the respondents to engage the petitioner's services as Assistant Technology Manager (ATM) pursuant to the orders dated 31.08.2020 and in the light of the representation dated 03.03.2022 submitted by the petitioner within a time frame as fixed by this Court.

3. The case of the petitioner in brief:
The petitioner was appointed as Assistant Technology Manager with effect from February 2012 on consolidated pay and



on temporary basis in the 2nd respondent department. Thereafter, by an order dated 31.08.2020, he was transferred from Krishnagiri Block to Uthangarai Block. While so, the 2nd respondent issued an order dated 19.09.2020, by suspending the petitioner, alleging that a case was registered against the petitioner by CBCID. In view of the same, the petitioner was arrested and subsequently he was released on bail. Thereafter, no investigation has been conducted and no charge sheet has been filed even after a lapse of 1 ½ years. Therefore, the petitioner made a representation to the 1st respondent on 03.03.2022 seeking revocation of suspension order and to reinstate him in service. But, no steps have been taken by the respondents. Hence, he filed this instant writ petition before this Court.

4. Mr.A.M.Ayyadurai, learned Government Advocate takes notice for the respondents would submit that, the petitioner was placed under suspension for his involvement in malpractice in the PM Kissan Scheme and the case is pending before the CBCID for investigation.

5. 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.



6. Therefore, in the light of the above and also considering the fact that the case against the petitioner is still pending for investigation, this Court is inclined to pass the following order.

i) The 2nd respondent is directed to consider the petitioner's representation dated 03.03.2022 and to pass appropriate orders on its own merits and in accordance with law, as early as possible, within a period of six weeks from the date of receipt of a copy of this order.

7. With the above direction, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ata/mst

To

1.The Collector,
Krishnagiri District.

2.The Joint Director of Agriculture,
Krishnagiri District,
Collectorate Complex,
Krishnagiri.

+lcc to Mr.V.Vijay Shankar, Advocate, S.R.No.30220
+lcc to the Government Pleader, S.R.No.29402

W.P.No.10857 of 2022

SSD(CO)
SB(30/05/2022)