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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 9.6.2022

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THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.No.13590 of 2022
and W.M.P.No.12802 of 2022

M.Marimuthu

... Petitioner

Vs.

The Revenue Divisional Officer,
Udaiyarpalayam,
Ariyalur District.

... Respondent

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, to call for the records connected with the impugned order of suspension in Rc. No.A1/ 1590/ 2021 dated 09.07.2021 passed by the respondent and quash the same and direct the respondent to reinstate the petitioner into service with all benefits.

For Petitioner : Mr.A.R.Suresh

For Respondents : Mr.T.Arun Kumar, A.G.P.

O R D E R

According to the petitioner, the petitioner while working as Village Administrative Officer, based on a complaint given by one Aruljothi, an F.I.R. was registered in Crime No.1 of 2021 and the petitioner was arrested in a trap was conducted against the petitioner on 7.7.2021 and the petitioner was remanded to judicial custody. Later, he was released on bail. Based on the criminal case registered against the petitioner, he was placed under suspension. According to the petitioner, till the date of filinig writ petition, no charge memo was served to the petitioner and also no charge framed against the petitioner by the Directorate of Vigilance and Anti Corruption. The petitioner relied on the decision of the Hon'ble Supreme Court reported in 2015 (7) SCC 291. Therefore, the impugned order passed by the respondent is liable to be quashed.

2. The learned Additional Government Pleader appearing



for the respondents submitted that the petitioner was caught red handed by the Vigilance and Anti Corruption department and therefore, interference of this Court is not warranted at this stage. In support of his contention, he relied upon the judgment of the Hon'ble Supreme Court reported in 2022 (2) CTC 353 [P. Kannan Vs. Commissioner for Municipal Administration and Others] wherein the Hon'ble Supreme Court has held as follows:

'34. Referring to the aforesaid judgment of the Apex Court, a Division Bench of this court in The Superintending Engineer, TANGEDCO v. Mohan Kumar, [Judgment dated 20.1.2022 passed in W.A. (MD) No. 1827 of 2021] held as under:

"20. In the case of Bimal Kumar Mohanty (supra), the Apex Court held that suspension is not a punishment, but only one for forbidding or disabling an employee to discharge the duties of office or post held by him. It is with the direction that each case may be considered on its facts and taking into account the gravity of the offence or the misconduct. The interference with the order of suspension should not be driven in reference to a judgment, but needs to be determined on facts and after considering the rules governing the delinquent. Judicial review in such matters should be minimal. In the instant case, the allegation against the delinquent is quite serious, as he not only demanded but accepted bribe and was caught red-handed by the Anti-Corruption Department. The aforesaid were the relevant facts, but were not considered by the learned Single Judge while causing interference with the order of suspension. It is even after ignoring the earlier judgment of the Division Bench in the case of A. Srinivasan (supra), wherein it was categorically held that the judgment of the Apex Court in the case of Ajay Kumar Choudhary (supra) does not evolve a general principle for causing interference with the order of suspension if charge-sheet is not served or charge memo is not filed within three months of the order of suspension. The finding of the Division Bench of this Court in the case of A. Srinivasan (supra) has even been ignored, though binding in nature.

21. In view of the above, we find reasons to cause interference with the judgment of the learned Single Judge as none of the judgments cited by learned counsel for the writ



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petitioner/non-appellant provide assistance on the issue, rather those judgments have been given referring to the judgment in the case of Ajay Kumar Choudhary (supra), without analyzing the fact that even in the case of Ajay Kumar Choudhary (supra), the order of suspension was not interfered with by the Apex Court, though the charge-sheet in the said case was filed after three months since the date of initial suspension of the delinquent employee."

[emphasis supplied]

3. In view of the judgment cited supra, counsel appearing for the petitioner seeks appropriate direction to the respondent. According to the petitioner, the petitioner made representation on 17.9.2021 and the same may be considered and pass appropriate orders.

4. In the light of the decision cited supra and considering the facts and circumstances of the case, this Court is inclined to direct the respondent to consider the representation made by the petitioner, dated 17.9.2021 and pass appropriate orders on its own merit and in accordance with law, by taking note of the decision reported in P.Kannan case cited supra, as expeditiously as possible preferably within a period of 12 weeks from the date of receipt of copy of the order.

5. Accordingly, the writ petition stands disposed of with the above directions. No Costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

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To

The Revenue Divisional Officer,
Udaiyarpalayam, Ariyalur District.

+1cc to Mr.K.Arumugam, Advocate SR.No.33897

W.P.No.13590 of 2022
and W.M.P.No.12802 of 2022

RGN (CO)
GMY (29/06/2022)