



W.P.No.13650 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.13650 of 2020
and WMP No.16964, 16966 of 2020

M.Kannan

... Petitioner

Vs.

The District Collector,
Gundu Salai Road, Pennaiyar Road,
Manjakuppam, Cuddalore 607 001.

... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus, to call for the records connected with the proceedings issued in A2/24897/2019 dated 31.08.2019-1 passed by the respondent and quash the same and consequently, direct the respondent to reinstate the petitioner into service.

For Petitioner : Mr.S.Illamvaludhi

For Respondent : Mr.V.Jeevagiridharan,
Addl. Govt. Pleader



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ORDER

This Writ Petition has been filed seeking to issue a Certiorarified Mandamus, quashing the impugned suspension order 31.08.2019 and consequently, direct the respondent to reinstate the petitioner into service.

2. The petitioner was working as Tahsildar. A case in Crime No.10/2019 was registered against him under Prevention of Anti Corruption Act and consequently, he was suspended from service. According to the petitioner, he has been falsely implicated in the criminal case and hence the suspension order may be quashed.

3. The learned counsel appearing for the petitioner submitted that the respondent has placed the petitioner under prolonged suspension and till now, no disciplinary proceedings has been initiated by them. In such circumstances, the suspension order is liable to be revoked and the respondent may be directed to reinstate the petitioner into service, pending disposal of the criminal case.

4. The learned Additional Government Pleader strongly objected



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for revocation of the suspension order. He further submitted that, in the criminal case, the petitioner was assigned as A1 and after filing of charge sheet, the case was numbered as C.C.No.20/2020 on the file of the Chief Judicial Magistrate cum Special Judge, Cuddalore and the case is ripe for trial.

5. Though the learned Additional Government Pleader submitted that the criminal case is ripe for trial, he is not in a position to explain as to why the respondent has not initiated disciplinary proceedings against the petitioner. 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



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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 decision and also considering the facts and circumstances of the case and the gravity of the charges levelled against the petitioner, this Court is of the view that there is no merit in the writ petition and the impugned suspension order does not warrant interference by this court.

7. At this stage, the learned counsel appearing for the petitioner



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submitted that, it is suffice to direct the concerned Court to dispose the case in C.C.No.20/2020, within a stipulated time, as fixed by this court.

He also submitted that the petitioner is ready and willing to co-operate for speedy disposal of the above criminal case.

8. Inview of the above submission, it is ordered as follows.

i) The learned Chief Magistrate cum Special Judge, Cuddalore is directed to dispose the C.C.No.20/2020, as early as possible, within a period of six months from the date of receipt of a copy of this order.

9. With the above directions, the writ petition stands disposed of. No costs. Consequently, connected writ miscellaneous petition are closed.

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Index:Yes/No
Internet: yes/no
mst

To



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Copy to

The Chief Magistrate cum Special Judge,
Cuddalore



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D. KRISHNAKUMAR, J.

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