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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2022

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.15537 OF 2020

P.Dhanalakshmi

... Petitioner

Vs.

1. The District Collector,
Namakkal,
Namakkal District.

2. The Project Officer,
Child Welfare Scheme,
Namakkal,
Namakkal District.

... Respondents

PRAYER: This Writ Petition has been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing 1st respondent to revoke the order of suspension dated 13.01.2020 made in Se.Mu.Na.Ka.No.20/A1/2020 passed by 1st respondent, by considering the petitioner's representation dated 08.08.2020.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.Haja Nazirudeen
Additional Advocate General
Assisted by Ms.S.Anitha
Special Government Pleader[R1]

O R D E R

The relief sought for in the writ petition is for a Mandamus directing the respondents to revoke the order of suspension dated 13.01.2020 made in Se.Mu.Na.Ka.No.20/A1/2020 passed by 1st respondent, by considering the petitioner's representation dated 08.08.2020.



2. Brief facts of the case:

The petitioner was appointed as Anganwadi Worker at Child Welfare Centre, Mangalapuram, Namakkal District and thereafter, transferred to Child Welfare Centre, Senthamangalam Taluk, Namakkal District and later to Thottipatti. While so, the first respondent has passed an order placing the petitioner under suspension, since she was arrested in FIR.No.12 of 2020. After released from bail, the petitioner has made representations to the respondents to pay the subsistence allowance during the period of suspension and also to revoke the order of suspension, but no action has been taken so far. Hence, the writ petition.

3. The learned counsel appearing for the petitioner would submit that on 04.10.1995, the petitioner was appointed as Anganwadi Worker at Child Welfare Centre, Mangalapuram, Namakkal District and finally transferred and posted at Child Welfare Centre, Thottipatti in the year 2015. Due to the family dispute between her and her family members, a counter case has been foisted against her and her husband in FIR.No.12 of 2020 and she was remanded to judicial custody. In view of the same, the first respondent by his proceedings in Se.Mu.Na.Ka.No.20/A1/2020, dated 13.01.2020 has placed the petitioner under suspension. After released from the bail, the petitioner has made representation dated 09.06.2020 to the second respondent to pay the subsistence allowance during the period of suspension and also submitted another representation dated 08.08.2020 to revoke the order of suspension, but no action has been taken so far and on the other hand the second respondent has sent a communication to the first respondent iter alia refusing the petitioner's request in view of the pendency of the criminal case.

4. He would further submit that due to political motive a false case has been foisted against her and he would rely upon the judgment of the Hon'ble Supreme Court in the case of Ajay Kumar Choudhary Vs. Union of India - 2015 (7) SCC 291, wherein, the Hon'ble Supreme Court of India has held as follows:

"We, therefore, direct that the currency of a suspension order should not extend beyond three months if within this period the memorandum of charges/charge-sheet is not served on the delinquent officer/employee; if the memorandum of charges/charge-sheet is served, a reasoned order must be passed for the extension of the suspension".

Further, he would submit that the dispute between the petitioner and her family members is purely Civil Dispute and there is nothing to do with the department. Hence, he seeks for a



direction to revoke the order of suspension dated 13.01.2020 by considering the petitioner's representation dated 08.08.2020.

5. The learned Government Pleader appearing for the respondents would submit that while the petitioner was in service a case was registered in Crime No.12 of 2020 for the offences under Section 294(b), 324, 506(ii) of IPC, thereafter, charge sheet was filed but the case has not been taken on file. He would further submit that the Government vide letter Ms.No.54/SW-7(1)/2014-1, dated 04.08.2015, had issued an instruction that the Anganwadi Workers/Helpers, those who are involved in criminal case shall be placed under suspension till the end of the criminal and the subsistence allowance should not be given during the suspension period. If the charges proved, the individual shall be removed from service and in case of the not prove charges, the individual may be reinstated into service on the basis of no work no pay during the suspension period and also instructed to follow the instructions from the Govt.Lr.No.151/NMS-1/2006-1, dated 11.08.2003. Further he would submit that the Criminal Case against the petitioner is still pending and hence, the claim of the writ petitioner has not been considered as per the Government instructions.

6. Further, the learned Additional Advocate General would rely upon the Hon'ble Full Bench judgment of this Court in W.P.Nos.2165/2015 & 21628/2018, wherein, the Hon'ble Full Bench of this Court has held as follows:

"(i) The judgment of the Apex Court in the case of Ajay Kumar Choudhary Vs. Union of India - 2015 (7) SCC 291, 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."

7. Heard the learned respective counsels on either side and perused the materials placed on record.

8. In view of the above facts and circumstances of the case, it seems that due to civil dispute, a case has been foisted against the petitioner. Hence, in the light of the order passed by the Hon'ble Full Bench of this Court, this Court is inclined to direct the respondents to pass appropriate orders by taking note of the gravity of the offence, for revocation of the petitioner's suspension order by considering the petitioner's representation dated 08.08.2020, as early as possible preferably within a period of four weeks from the date of receipt of a copy of this orders.



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

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

Dua

To

1. The District Collector,
Namakkal,
Namakkal District.
2. The Project Officer,
Child Welfare Scheme,
Namakkal,
Namakkal District.

+1cc to M/s.N.Manokaran, Advocate, S.R.No.20492

+1cc to the Government Pleader, S.R.No.20639

W.P.No.15537 of 2020

GPL (CO)
RLP (18/04/2022)