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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2022

CORAM

THE HON'BLE MR JUSTICE D. KRISHNAKUMAR

W.P.No.19525 of 2020

and

W.M.P.Nos.24142 & 24143 of 2020

(Through Video Conferencing)

Velusamy
S/o Aandi

...Petitioner

Vs.

1. The Additional Director General of Police,
and Inspector General of Prisons,
Tamil Nadu Prison Department,
Egmore, Chennai - 600 008.

2. The Deputy Inspector General of Prisons,
Coimbatore Range, Coimbatore.

3. The Superintendent of Prison,
Central Prison, Coimbatore.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records from the second respondent pertaining to No.4567/Mu.Vu/2017 dated 15.05.2019 to quash the same pertaining to second time suspension and consequently direct the first and second respondents to permit the petitioner to continue his service subject to outcome the result of fresh enquiry.

For Petitioner : Mr.P.G.Thiyagu

For Respondents : Mr.P.Balathandayntham
Special Government Pleader

ORDER

This writ petition has been filed to quash the suspension order dated 15.05.2019 passed by the second respondent and consequently direct the first and second respondents to permit the petitioner to continue his service subject to outcome the result of fresh enquiry.



2. The case of the petitioner in brief:

The petitioner was appointed as Cook in the Central Prison, Coimbatore on 09.01.2009. On 28.01.2016, the petitioner was issued charge memo by the third respondent. The petitioner submitted a detailed explanation and also gave several representations to furnish documents, referred in the Charge Memo and other relevant documents. But the third respondent refused to provide such documents. However passed an exparte order on 26.07.2017, dismissing the petitioner from service. The petitioner preferred an appeal before second respondent. The second respondent, passed an order on 15.05.2019, setting aside the order of the third respondent dated 26.06.2017, with a direction to the Disciplinary Officer to reinstate the petitioner into service and once again suspend him and continue fresh departmental enquiry, by appoint new Enquiry Officer. Therefore, the petitioner preferred a revision petition before the first respondent and it is still pending. The petitioner is ready to face fresh enquiry to be conducted by the third respondent, on furnishing relevant documents. Hence this writ petition.

3. The learned counsel appearing for the respondents submitted that as against the impugned order dated 15.05.2019, the petitioner preferred a revision petition before the first respondent, and is still pending. Without any final order passed by the Revisional Authority, the present writ petition cannot be entertained. Further, as per the order of the second respondent dated 15.05.2019, the dismissal order passed against the petitioner was revoked, by the proceedings of the third respondent dated 25.05.2019 and the petitioner was reinstated into service, and further suspension order has been passed. Therefore, the present writ petition is not maintainable.

4. The learned counsel appearing for the petitioner submitted that, the date of occurrence, alleged to have been happened was on 04.12.2016 and for more than 5 years, the petitioner is under suspension. Hence, he made a representation to the third respondent to permit him to continue service, till final order passed by the third respondent and hence, such request may be considered by the Department.

5. Considering the facts and circumstances of the case and also the submission made by the learned counsel for the petitioner, this court is inclined to pass orders.

6. Accordingly, it is ordered as follows.

i) The third respondent is directed to consider the request of the petitioner to reinstate him into service, without prejudice to any enquiry, if any proceeded by the respondent.



ii) On such consideration, if the third respondent opines that the petitioner is not suited to the present place, they can transfer him to some other place, in the interest of administration.

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iii) The request of the petitioner to furnish the required documents for enquiry, shall be considered by the third respondent, soon after the receipt of application made by the petitioner afresh.

7. With the above directions, this writ petition is disposed of. No costs. Consequently, connected writ miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-VII)

//True copy//

Sub Assistant Registrar

mst

To

1. The Additional Director General of Police,
and Inspector General of Prisons,
Tamil Nadu Prison Department,
Egmore, Chennai - 600 008.
2. The Deputy Inspector General of Prisons,
Coimbatore Range, Coimbatore.
3. The Superintendent of Prison,
Central Prison, Coimbatore.

+1cc to Mr.A.Poonkodi, Advocate SR.No.8246

+1cc to Government Pleader SR.No.8318

W.P.No.19525 of 2020

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KG(CO)

GMV(04/03/2022)