

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.26523 of 2021

M.Raju

.. Petitioner

vs.

1.The District Collector,
Villupuram District, Villupuram.

2.District Revenue Officer,
Villupuram District, Villupuram.

3.The Revenue Divisional Officer,
Revenue Divisional Office,
Villupuram.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 3rd respondent /Revenue Divisional Officer, Villupuram to consider and pass orders on the petitioner's representation dated 25.10.2021 in the light of the order passed by the Hon'ble Supreme Court in Ajay Kumar Chaudri v. Union of India reported in 2015 (2) Scales 432, to revoke the suspension order dated 28.08.2021, having reference A1/2869/2021 on the file of the Revenue Divisional Officer, Villupuram.

For Petitioner : Mr.E.P.Senniyangiri

For Respondents: Mr.S.Rajesh,
Government Advocate

O R D E R

The prayer in the writ petition is for a Mandamus directing the 3rd respondent/Revenue Divisional Officer, Villupuram to consider and pass orders on the petitioner's representation dated 25.10.2021 in the light of the order passed by the Hon'ble Supreme Court in Ajay Kumar Chaudri v. Union of India reported in 2015 (2) Scales 432, to revoke the suspension order dated 28.08.2021, having reference A1/2869/2021 on the file of the Revenue Divisional Officer, Villupuram.

2. The case of the petitioner is that while he was serving as Village Administrative Officer, alleged to have demanded and accepted Rs.20,000/- illegal gratification on 25.08.2021 and a case in crime No.10/2021 was registered under Section 7 of the Prevention of Corruption Act, 1988 by the Directorate of Vigilance and Anti-Corruption and therefore, he was placed under suspension, vide order of the third respondent dated 28.08.2021. Challenging the same, the petitioner has filed the present writ petition.

3. The learned counsel for the petitioner submits that the petitioner has been kept under prolonged suspension and neither any charge sheet has been filed nor any charge memo was served on the petitioner and in the light of the decision of the Hon'ble Supreme Court in Ajay Kumar Choudhary v. Union of India [(2015) 7 SCC 291], he seeks for revocation of the suspension order, based on his representation dated 25.10.2021.

4. The decision relied on by the petitioner in Ajay Kumar Choudhary case cannot be accepted on the ground that on a reference made to the two conflicting judgments rendered by the Division Benches of this Court on a challenge to the order of suspension, Hon'ble Full Bench of this Court in W.P.Nos.2165 of 2015 and 21628 of 2018 dated 15.03.2022 [P.Kannan v. Commissioner of Municipal Administration, Chennai and Others], has answered as under:

"(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."

5. In the light of the above, this Court directs the third respondent to consider the petitioner's representation dated

25.10.2021, seeking revocation of the suspension order, in the light of Full Bench decision of this Court cited supra and pass appropriate orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order.

6. With the above direction, this Writ Petition stands disposed of. No costs.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

Jvm

To

1.The District Collector,
Villupuram District, Villupuram.

2.District Revenue Officer,
Villupuram District, Villupuram.

3.The Revenue Divisional Officer,
Revenue Divisional Office,
Villupuram.

+1cc to Mr.E.P.Senniyangiri, Advocate SR.No.40987

+1cc to Government Pleader SR.No.42040

W.P.No.26523 of 2021

KV(CO)
GMY(19/07/2022)