



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.28444 of 2021

S.Shenbagavalli

.. Petitioner

Vs.

1. The District Collector,
Cuddalore District,
Cuddalore.

2.District Revenue Officer,
Cuddalore District,
Cuddalore.

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

.. 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 the Revenue Divisional Officer Cuddalore to consider and pass orders on the petitioners representation dated 05/12/2021 in the light of the order passed by the Honourable Supreme Court of India in Ajay Kumar Chaudri V. Union of India reported in 2015 (2) SCALES 432 to revoke the Suspension order dated 15/09/2021 having reference A6/ 3405 /2021 on the file of the Revenue Divisional Officer Cuddalore.

For Petitioner : Mr.C.Pushparaj

For Respondents : Mr. Haja Nazirudeen, AAG
Assisted by Mrs. S. Anitha, Spl.GP

O R D E R

The case of the petitioner is that he was placed under suspension, vide proceedings of the third respondent dated 15.09.2021 on the ground of arrest by the Inspector of Police, Vigilance and Anti-Corruption, Cuddalore, on 14.09.2021 and registration of Criminal Case in Cr.No.08/2021 under Section 7 of the Prevention of Corruption Act, 1988 for demand and acceptance of bribe of Rs.8,000/-. Challenging the same, the



petitioner has filed the present writ petition.

2. The learned counsel for the petitioner submits that the petitioner has also submitted a representation to the respondents for revocation of the order of suspension and it is still pending and the case registered in Cr.No. 08/2021 is also still in the FIR stage, without any investigation. The final report also not filed. Likewise, no departmental proceedings are initiated, neither charge memo is served nor enquiry was conducted. Hence, the learned counsel for the petitioner, by the relying upon the decision of the Hon'ble Apex Court in Ajay Kumar Chaudri Vs. Union of India, reported in 2015(2) SCALES 432, seeks direction to the respondents to consider the representation dated 05.12. 2021 made by the petitioner.

3. 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, 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.

4. The Additional Advocate General appearing for the respondents submitted that the representation submitted by the petitioner for revocation of the suspension order will be considered by the authorities concerned.

5. In view of the above, the respondents are directed to consider the petitioner's representation dated 05.12.2021



seeking revocation of the suspension order and pass orders on merits and in accordance with law within a period of twelve (12) 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(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Cuddalore District,Cuddalore.

2.District Revenue Officer,
Cuddalore District,Cuddalore.

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

+1cc to Mr.EP.Senniyangiri, Advocate, S.R.No.27859

+1cc to the Government Pleader, S.R.No.27978

W.P.No.28444 of 2021

AJS (CO)
CT 30/05/2022