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WP.No.25679/2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.07.2022

CORAM

THE HONOURABLE MR. JUSTICE R. SURESH KUMAR

WP.No.25679/2018 & WMP.Nos.29862/2018 & 12734/2019

V.Dhanabal

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Petitioner

Versus

1.The Director General of Police [L&O]
Mylapore, Chennai 600 004.

2.The Inspector General of Police
West Zone, Coimbatore Range
Coimbatore.

3.The Deputy Inspector General of Police
Coimbatore Range, Coimbatore.

..

Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records relating to respondent's proceedings made in C.No.D/12199/2017 R.O.187/2017 dated 10.11.2017 and quash the same and direct the respondents to reinstate the petitioner into service with all service benefits including monetary benefits.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.R.U.Dinesh Rajkumar
Additional Government Pleader



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ORDER

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- (1)The prayer sought for herein is to quash the order of the 3rd respondent dated 10.11.2017 suspending the petitioner herein with a further prayer to direct the respondents to reinstate the petitioner into service with all service benefits including monetary benefits.
- (2)The petitioner was working as a Head Constable at Kovilpalayam Police Station, Coimbatore District. While so, on 09.11.2017, due to a case registered by the Department of Vigilance and Anti Corruption [DVAC], the petitioner was arrested and he had been in judicial custody for few days. Therefore, taking note of the said involvement in a criminal case punishable under the provisions of the Prevention of Corruption Act, 1988, as he was arrested on 09.11.2017 and had been in judicial custody upto 24.11.2017, the respondents invoked Rule 3 [3][i][2] of the Tamil Nadu Police Subordinate Services [Discipline and Appeal] Rules, 1955, and placed the petitioner under suspension by order dated 10.11.2017.
- (3)Though the petitioner had been suspended in the year 2017 and since there had been no progress in the criminal case and no disciplinary proceedings was initiated and he has been in continuous suspension,



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the petitioner has moved this Court challenging the suspension order dated 10.11.2017.

(4) Heard Mr.C.Prakasam, learned counsel for the petitioner who would submit that so far no progress has been shown in the investigation by DVAC as no charge sheet has been filed and no disciplinary action has also been initiated. Therefore, the petitioner since has been under prolonged suspension for nearly five years, the suspension may be interfered with by this Court, he contended.

(5) However, Mr.R.U.Dinesh Rajkumar, learned Additional Government Pleader appearing for the respondents would submit that it is for the DVAC to complete the investigation and to file a charge sheet. Unless and until the case is decided one way or the other after trial is completed pursuant to the charge sheet to be filed by DVAC, no final decision can be taken by the respondents since DVAC case involves a serious issue and it may not be justifiable on the part of the petitioner to seek for revocation of the suspension order, he contended.

(6) I have considered the rival submissions and also perused the materials placed before this Court.



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(7) No doubt, pursuant to the alleged involvement in a criminal case and the investigation by DVAC for the alleged offences punishable under Sections 7 and 12 of the Prevention of Corruption Act, 1988, the petitioner initially was arrested and had been in judicial custody as a pre-trial prisoner from 09.11.2017 to 24.11.2017 and thereafter, he seems to have come out on bail.

(8) Therefore, that triggered the respondents to invoke the said provision of the Tamil Nadu Police Subordinate Services [D&A] Rules and he has been placed under suspension by order dated 10.11.2017 which is impugned herein.

(9) The learned counsel for the petitioner submitted that so far no investigation is progressed and no charge sheet has been filed by DVAC. If so, it is more serious issue as more than 4 years, the DVAC cannot put in long slumber to file a charge sheet as this is not such a big case to complete the investigation after taking such a long time. In view of the aforestated delay caused on the part of DVAC, the petitioner since has been in prolonged suspension, he is getting subsistence allowance without rendering any service to the Department and also it amounts to mental agony to the petitioner to be



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out of service, i.e., under suspension and in these kind of inordinate delay caused by the police/DVAC people in completing the investigation and to file a charge sheet, the Hon'ble Supreme Court has come down heavily some times, especially in the case of ***Ajay Kumar Choudhary Vs. Union of India rep.by its Secretary and Another*** reported in ***2015 [7] SCC 291***.

(10) In that view of the matter, this Court is inclined to dispose of the writ petition with the following directions:-

- (a) There shall be a direction to the Department of Vigilance and Anti Corruption who is investigating the case against the petitioner pursuant to the arrest of the petitioner on 09.11.2017 in Crime No.6 of 2017/AC/CB to file the charge sheet within a period of three months from the date of receipt of a copy of this order.
- (b) Depending upon the investigation and filing of the charge sheet, it is open to the petitioner to make a request to the respondents after three months to revoke the suspension.
- (c) Once such a plea is made by the petitioner, it is open to the respondents to consider the same on merits and to decide as to whether the prolonged suspension made against the petitioner by



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order dated 10.11.2017 can be revisited and the same can be revoked or not. Such a decision can be taken on receipt of such request from the petitioner after three months, within a further period of four weeks thereafter.

(11)With the above directions, the writ petition is **disposed of**. No costs.

Consequently, connected miscellaneous petitions are closed.

12.07.2022

AP

Internet : Yes

To

- 1.The Director General of Police [L&O]
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R.SURESH KUMAR, J.,

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