



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.03.2022

CORAM:

**THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

**Cont.P.(MD)No.380 of 2022**

G.Ashok Kumar

... Petitioner

versus

1. S.Natarajan, I.A.S.  
Principal Secretary/Transport  
Commissioner,  
Chepauk,  
Chennai.

2. P.Jaishankar  
Regional Transport Officer,  
Pudukottai.

... Respondents

Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971, to punish the respondents for willful disobedience of the order dated 29.11.2021 passed in W.P.(MD)No.1655 of 2020.

**Prayer in WP(MD). 1655/ 2020 :**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for the records pertaining to the order of suspension passed in Proc.R.No.47427/VB1/2020 dated 23.1.2020 by the 1st respondent and quash the same and further direct the respondents to reinstate the petitioner.

For Petitioner : Mr.T.S.Mohamed Mohideen

For Respondents : Mr.A.Baskaran,  
Additional Government Pleader

**ORDER**

This contempt petition has been filed that the order passed by this Court in W.P.(MD)No.1655 of 2020 dated 29.11.2021 has been violated by the first respondent.

2. This Court, by order dated 29.11.2021, directed the respondents to take a decision on the petitioner's representation seeking revocation of suspension, in the light of the Judgment passed by the Hon'ble Supreme Court in **Ajay Kumar Choudhary vs. Union of India**, reported in **2015 2 SCC 291**. Pursuant to the order of this Court, the first respondent, by his proceedings dated 04.02.2022, considered the representation of the petitioner, however, rejected the request of the petitioner. The relevant portion is extracted hereunder:

<https://hcservices.ecourts.gov.in/hcservices/>



"On consideration of the individual's representation, in the light of the rule 17(e) (5) of TNCS (D&A) Rules and the Government Orders

"Where a Government servant is suspended or is deemed to have been suspended (whether in connection with any disciplinary proceedings or otherwise) and any other disciplinary proceedings are commenced or any other criminal complaint is under investigation or trial against him during the continuance of that suspension, and where the suspension of the Government servant is necessary in public interest as required under clause (1), the authority competent to place him under suspension may, for reasons to be recorded by him in writing, direct that the Government servant shall continue to be under suspension until the termination of all or any of such proceedings including departmental proceedings taken on the basis of facts which led to the conviction in a Criminal Court".

In the G.O.Ms.No.211, P&AR(N) Department, dated 27.02.1980, para 5(ix) states as follows:- The time limits for suspension will not be applicable to cases of Government servants against whom criminal proceedings have been initiated.

Moreover, the G.O.Ms.No.40, P&AR(N) Department, dated 30.01.1996 states that the suspension once ordered does not terminate unless revoked with reference to the provisions of Rule 17(e) (6) or in exercise of the power of review under Rule 36 of the Tamil Nadu Civil Services (Discipline & Appeal) Rules. A separate order for extension of suspension period need not be issued.

In view of the above position, I, the Transport Commissioner, hereby reject the representation made by Thiru.G.Ashok Kumar, Motor Vehicles Inspector Grade-I (U/S), dated 05.12.2021 in the light of above said rule 17(e) (5) of TNCS (D&A) Rules and as per the instructions issued in the G.O.Ms.No.211, P&AR(N) Department, dated 27.02.1980, para 5(ix) and also in G.O.Ms.No.40, P&AR(N) Department, dated 30.01.1996."

3. The observation of the first respondent is that a separate order for extension of suspension period need not be issued. According to the learned counsel for the petitioner, the observation of the first respondent is against the guidelines issued by the Hon'ble Apex Court



reported in **2015 2 SCC 291**.

4. The Hon'ble Apex Court, in the case of **Ajay Kumar Choudhary vs. Union of India**, reported in **2015 2 SCC 291**, held that suspension order should not extend beyond three months, if within this period the Memorandum of Charges/Chargesheet is not served on the delinquent officer/employee and if the Memorandum of Charges/Chargesheet is served, a reasoned order must be passed for the extension of the suspension.

5. The said proposition is also extracted in paragraphs 5 and 9 of the order dated 29.11.2021 passed by this Court in W.P.(MD) No.1655 of 2020. The first respondent, though stated so, has assigned reasons for not revoking the suspension. Therefore, this Court is not inclined to entertain the Contempt Petition. However, this Court is of the view that the first respondent ought to have avoided this type of observation in future.

6. Accordingly, the Contempt Petition is dismissed. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1. The Principal Secretary/Transport  
Commissioner,  
Chepauk,  
Chennai.

2. The Regional Transport Officer,  
Pudukottai.

+1 CC to M/s.T.S.MOHAMED MOHIDHEEN, Advocate ( SR-10788[F] dated 09/03/2022 )

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