



W.P(MD)No.20566 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.09.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.20566 of 2022

and

W.M.P.(MD)Nos.14896, 14897 and 14898 of 2022

V.Arasumani

... Petitioner

Vs

The District Collector,
Thanjavur District,
Thanjavur.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned Proceedings issued by the respondent in Na.Ka.No.10095/2017/Ka.4 dated 30.08.2019 and to Quash the same and consequently, direct the respondent to review the order of suspension issued by the respondent dated 12.06.2017 and to reinstate the petitioner into service as Block Development Officer (Village Panchayat), Peravurani Block, with all consequential and other attendant benefits, including payment of arrears of salary, within a time frame to be fixed by this Court.



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For Petitioner : Mr.P.Deepak

For Respondent : Mr.M.Sureshkumar,
Addl. Government Pleader.

ORDER

Heard the learned counsel on either side.

2.The writ petitioner joined the department as Junior Assistant in Panchayat Union Office, Sethubavachatram in the year 1986. He was promoted as Assistant and then as Deputy Block Development Officer in the year 2012. He was implicated in a case of misappropriation of funds in Crime No.15 of 2017 registered on the file District Crime Branch, Thanjavur. Parallely, departmental action was also taken. In the meanwhile, petitioner was suspended from service on 12.06.2017. This writ petition has been filed for reinstatement.

3.The respondent has filed counter affidavit. The learned Additional Government Pleader took me through its contents. The learned Additional Government Pleader would state that misappropriation of funds is to the tune of few crores of rupees. He, therefore, called upon this Court to sustain the impugned order whereby, the petitioner's request for reinstatement was rejected.



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4.I carefully considered the rival contentions and went through the materials on record.

5.A learned Judge of this Court vide order dated 25.07.2019 made in W.P.No.11967 of 2018 after referring to earlier decisions had held as follows:-

“14.In same lines, various High Courts and particularly this High Court have passed numerous orders setting aside the suspension order and directed the authorities concerned to post the suspended officers concerned in non-sensitive posts. This was done keeping in mind public interest, as payment of huge subsistence allowance without extracting work from the employee concerned, drains public exchequer. Moreover, the person accused is entitled to speedy trial under [Article 21](#) of the Constitution of India. Therefore, in order to uphold the public interest and also constitutional imperatives, the suspension orders have been interfered with by the Courts.

15.In view of the above, this Court has no hesitation in allowing the Writ Petition. Accordingly, the impugned order dated 25.06.2016 in bearing its Ref.No.F/M/vz;.008003/1530/ep/nk/eph;. 3/rp3/nfh.tp./V.rp./2016 and the reply dated 07.11.2017 bearing its Memo.No.10723/ 329/Adm.3/C.2/F.DV & AC/Suspension/2017 passed by the 4th Respondent are hereby set aside and the 2nd respondent is directed to reinstate the petitioner with all attendant benefits. While reinstating the petitioner, the 2nd respondent may ensure that the petitioner shall not be posted to any sensitive post. The order shall be complied with by the 2nd respondent within a period of four weeks from the date of receipt of a copy of this order.”



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6. Respectfully adopting the very same approach, I have to necessarily hold that the petitioner has made out a case for relief. No doubt, the charges against the writ petitioner are very serious. It is however surprising that though more than five full years have lapsed, the case is still pending at the FIR stage and even the final report has not been filed. The Hon'ble Supreme Court in the decision reported in **(2016) 9 SCC 491 (State Bank of India and Others Vs. Neelam Nag and Another)** had held that pendency of a criminal case need not be a bar for the disciplinary authority from initiating parallel action. In this case, the disciplinary authority had issued charge memo against the writ petitioner on 07.01.2018. I wanted to know from the learned Additional Government Pleader the outcome of the departmental action. It is stated that that the departmental action is also still pending. When the criminal case as well as the departmental proceedings are pending for more than five years, suspension of the writ petitioner obviously amounts to prolonged suspension.

7. I however do not interfere with the order impugned in the writ petition. But the impugned order was passed way back in August 2019. More than four years have elapsed since the passing of the impugned order. The disciplinary authority is expected to periodically review the order of suspension. Such an



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exercise does not appear to have taken place in this case. Be that as it may, keeping the petitioner under suspension for more than five years is clearly improper. I therefore direct the respondent to reinstate the petitioner and post him in any non-sensitive post. The petitioner shall be given such a posting where there is no access to funds. I make it clear that this order directing the writ petitioner's reinstatement will not come in the way of disciplinary authority from taking the disciplinary action to its logical conclusion. The petitioner is expected to extend his cooperation. Order reinstating the petitioner will be passed by the respondent within a period of four weeks from the date of receipt of a copy of this order.

8.The writ petition is allowed on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes/ No
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To:

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G.R.SWAMINATHAN, J.

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