



W.P(MD)No.26159 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.26159 of 2022

and

W.M.P(MD)No.20326 of 2022

K.Manickaselvi

... Petitioner

Vs

1.The District Collector,
Ramanathapuram.

2.The District Project Officer,
Integrated Child Development Scheme (ICDS),
Ramanathapuram District.

3.The Child Development Project Officer,
Kadaladi,
Ramanathapuram District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first respondent to revoke the petitioner's suspension order passed in Se.Mu.Na.Ka.No.2060/A1/2022 dated 18.07.2022 on the file of first respondent office and consequentially, direct the respondents to reinstate the petitioner with continuity of service and to pay arrears of the subsistence allowance to the petitioner and all other



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attendant benefits by considering the petitioner's representation, dated 01.11.2022.

For Petitioner : Mr.B.Mahendrarajan
For Respondents : Mr.J.KJayaseelan
Government Advocate

ORDER

Heard the learned counsel on either side.

2. With their consent the writ petition is taken up for final disposal at the admission stage itself. The writ petitioner is employed as anganwadi worker. She was implicated in Crime No.194 of 2022 on the file of Sayalkudi Police Station for various offences. She was arrested on 07.07.2022. Therefore, the impugned suspension order came to be passed. The order of suspension has rightly not been questioned in the writ petition. When the Government employee is arrested in a criminal case and he is in suspension for 48 hours, he / she is deemed to be under suspension. All that the petitioner wants is only revocation of the suspension order. The petitioner is a widow. The Hon'ble Apex Court in ***Ajay Kumar Choudhary Vs. Union of India*** reported in (2015) 7 SCC 291 had held as follows:

“21. We, therefore, direct that the currency of a 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; if the



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Memorandum of Charges/Chargesheet is served a reasoned order must be passed for the extension of the suspension. As in the case in hand, the Government is free to transfer the concerned person to any Department in any of its offices within or outside the State so as to sever any local or personal contact that he may have and which he may misuse for obstructing the investigation against him. The Government may also prohibit him from contacting any person, or handling records and documents till the stage of his having to prepare his defence. We think this will adequately safeguard the universally recognized principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognize that previous Constitution Benches have been reluctant to quash proceedings on the grounds of delay, and to set time limits to their duration. However, the imposition of a limit on the period of suspension has not been discussed in prior case law, and would not be contrary to the interests of justice. Furthermore, the direction of the Central Vigilance Commission that pending a criminal investigation departmental proceedings are to be held in abeyance stands superseded in view of the stand adopted by us.”

The Hon'ble Apex Court in ***State of Tamil Nadu Vs. Pramod Kumar*** reported in ***(2018) 17 SCC 677*** had held as follows:

“24. The first Respondent was placed under deemed suspension under Rule 3(2) of the All India Services Rules for



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being in custody for a period of more than 48 hours. Periodic reviews were conducted for his continuance under suspension. The recommendations of the Review Committees did not favour his reinstatement due to which he is still under suspension. Mr.P. Chidambaram, learned Senior Counsel appearing for the first Respondent fairly submitted that we can proceed on the basis that the criminal trial is pending. There cannot be any dispute regarding the power or jurisdiction of the State Government for continuing the first Respondent under suspension pending criminal trial. There is no doubt that the allegations made against the first Respondent are serious in nature. However, the point is whether the continued suspension of the first Respondent for a prolonged period is justified. 25. The first Respondent has been under suspension for more than six years. While releasing the first Respondent on bail, liberty was given to the investigating agency to approach the Court in case he indulged in tampering with the evidence. Admittedly, no complaint is made by the CBI in that regard. Even now the Appellant has no case that there is any specific instance of any attempt by the first Respondent to tamper with evidence. 26. In the minutes of the Review Committee meeting held on 27.06.2016, it was mentioned that the first Respondent is capable of exerting pressure and influencing witnesses and there is every likelihood of the first Respondent misusing office if he is reinstated as Inspector General of Police. Only on the basis of the minutes of the Review Committee meeting,



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the Principal Secretary, Home (SC) Department ordered extension of the period of suspension for a further period of 180 days beyond 09.07.2016 vide order dated 06.07.2016.

27. This Court in Ajay Kumar Choudhary v. Union of India, (2015) 7 SCC 291 has frowned upon the practice of protracted suspension and held that suspension must necessarily be for a short duration. On the basis of the material on record, we are convinced that no useful purpose would be served by continuing the first Respondent under suspension any longer and that his reinstatement would not be a threat to a fair trial. We reiterate the observation of the High Court that the Appellant State has the liberty to appoint the first Respondent in a non sensitive post.

28. With the aforesaid observation, the appeals are disposed of.”

3. I am satisfied that the continued suspension of the writ petitioner is not going to serve any purpose. The case had nothing to do with her discharge of the other duties. I, therefore, direct the respondents / competent authority to revoke the suspension order and reinstate the petitioner in service forthwith and without any delay.



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4. This writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

18.11.2022

Index : Yes / No

Internet : Yes/ No

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