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W.P.(MD)NO.26750 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.26750 of 2022 and
W.M.P.(MD)No.20956 of 2022

B.Suresh,
(Under Suspension),
HC 294,
Kenikarai police station,
Ramanathapuram District.

... Petitioner

Vs.

1. The Director General of Police (Tamil Nadu),
(Law and Order),
Mylapore,
Chennai – 600 004.
2. The Additional Director General of Police (Tamil Nadu),
Intelligence, Mylapore,
Chennai – 600 004.
3. The Inspector General of Police,
South Zone,
Madurai.
4. The Deputy Inspector General of Police,
Ramanathapuram Range,
Ramanathapuram.
5. The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.



6. The Deputy Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.

7. The Inspector of Police,
Special Branch,
O/o.The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.

8. The Inspector of Police,
Kenikarai police station,
Ramanathapuram District,
Ramanathapuram.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to suspension order in proceeding in C.No.F1/16002/2022 dated 27.07.2022 and the consequential suspension re-fixation order dated 16.08.2022 issued by the 5th respondent and quash the same and to reinstate the petitioner in service and to grant with all monetary and other benefits by treating the suspension period as duty period and pass orders within a time limit that may be fixed by this Court.

For Petitioner : Mr.A.Thirumurthy

For Respondents: Mr.A.K.Manikkam,
Special Government Pleader.

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ORDER

Heard the learned counsel on either side.

2. The writ petitioner is employed as Head Constable in Kenikarai police station, Kanyakumari District. By the impugned order dated 27.07.2022, he was suspended from service. The impugned order reads that the petitioner had committed misconduct which led to implication in Crime No.528 of 2022 registered on the file of Kenikkarai police station for the offence under Section 406 IPC.

3. The learned counsel appearing for the writ petitioner pointed out that the petitioner filed Crl.O.P.(MD) No.16301 of 2022 for quashing the said First Information Report. When the matter was taken up for hearing, the learned Additional Public Prosecutor submitted that after the investigation, the petitioner's name has been removed from the final report. Recording the said submission, the criminal original petition filed by the petitioner was closed. The learned counsel appearing for the petitioner would point out that when



such a stand has been taken in the quash petition filed by the petitioner, the impugned suspension ought not to be allowed to continue.

4. I find considerable force in the contention of the learned counsel appearing for the petitioner. The petitioner was suspended as early as on 27.07.2022. More than four months have elapsed. The stand taken before the Court in quash petition was that the petitioner had not committed the alleged theft.

5. The learned Special Government Pleader would contend that the petitioner was in-charge of the station by the relevant time and that he was guilty of dereliction of duty.

6. I do not want to go into the said contention. Suffice it to say that that was not the basis on which the impugned order of suspension is anchored. The allegation was that the petitioner had committed theft. Since the basis of the impugned suspension has been undermined in view of the stand taken in the criminal original petition, the impugned order is set aside.



This writ petition stands allowed. This order will not tie the hands of the concerned authority from taking action in the manner known to law. No costs. Consequently, connected miscellaneous petition is closed.

30.11.2022

Index : Yes / No

Internet : Yes/ No

PMU

To:

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6

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G.R.SWAMINATHAN,J.

PMU

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