



W.P.No.2811 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.2811 of 2023
and
W.M.P.No.2935 of 2023

Natarajan.C

... Petitioner

Vs.

1.The Transport Corporation,
Commissioner of Transport and Road Safety,
(State Transport Authority), Ezhilagam,
Chennai – 600 005.

2.The State of Tamil Nadu,
Represented by the Additional Chief Secretary to Government,
Home (Transport-II) Department.
Secretariat,
Chennai – 600 009.

[R2 impleaded vide order dated 07.02.2023
passed in W.M.P.No.3536 of 2023 in
W.P.No.2811 of 2023]

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus calling for the records of the respondent in connection with the impugned order passed by the respondent vide G.O.(2D).No.272 dated 25.07.2022 and quash the same as illegal, arbitrary and without any application of mind and



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consequently, direct the respondent to reinstate the petitioner into service with all consequential service and monetary benefits.

For Petitioner : Mr. Nithyesh Nataraj
for Mr. Anirudh A Sriram

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

ORDER

This writ petition has been filed challenging the impugned suspension order issued by the first respondent in G.O.(2D).No.272 dated 25.07.2022 and for a consequential direction to the respondents to reinstate the petitioner into service with all consequential benefits.

2.The case of the petitioner is that he joined the Motor Vehicles Department as a Motor Vehicle Inspector in the year 1993. Thereafter, the petitioner was promoted and ultimately, he was holding the post of Deputy Transport Commissioner-I at Chennai. A surprise check was made by the Vigilance and Anti-Corruption Department and some incriminating materials were recovered from the office room of the petitioner. The same led to registration of an FIR on 14.03.2022 in Crime No.4 of 2022.



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3.The petitioner was transferred and posted as Deputy Transport Commissioner, Tirunelveli through the proceedings of the first respondent dated 19.03.2022. According to the petitioner, this transfer was made by taking into consideration the above criminal case and hence, the respondents wanted to keep the petitioner in a non-sensitive post, which resulted in passing the transfer order. The petitioner in obedience to transfer order, joined the office at Tirunelveli.

4.The grievance of the petitioner is that the first respondent through the impugned G.O.(2D).No.272 dated 25.07.2022 passed an order of suspension. Challenging the same, the present writ petition has been filed before this Court.

5.When the writ petition came up for admission on 03.02.2023, this Court directed the learned Additional Government Pleader appearing on behalf of the respondents to take instructions and ascertain the correct facts, which led to the petitioner being transferred to a different place and thereafter, suspended from service.



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6. When the matter was taken up for hearing today, the learned

Additional Government Pleader produced the written instructions received from the first respondent. On going through the same, it is seen that the suspension order was passed on 25.07.2022, against the petitioner and also one C.Murugan, who was the Assistant, by taking into account the criminal case that was registered for offences under the Prevention of Corruption Act. It is further stated in the written instructions that the criminal case is still under investigation by the Directorate of Vigilance and Anti-Corruption (DV & AC). Considering the seriousness of the allegations, it was thought fit that the petitioner should be kept under suspension. Hence, the suspension order dated 25.07.2022 was passed.

7. Heard Mr.Nithyesh Nataraj, learned counsel appearing on behalf of the petitioner and Mr.R.U.Dinesh Rajkumar, learned Additional Government Pleader appearing on behalf of the respondents.

8. The learned counsel for the petitioner mainly attacked the suspension order on the ground that the said suspension order is completely bereft of details. The learned counsel by bringing to the notice



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of this Court G.O.Ms.No.71 dated 04.08.2022, submitted that the order of suspension must clearly state as to why the authority resorted to such a step and what is the public interest that is involved for taking such a decision. The learned counsel submitted that there is absolutely no mention about anything in the suspension order and the same is not in line with the Government Order.

9.The learned counsel for the petitioner further submitted that even though the earlier transfer order is purportedly issued for administrative reasons, the same was done only by way of a punishment by virtue of the criminal case that was registered against the petitioner. In view of the same, there was no need for the first respondent to impose one more punishment by suspending the petitioner. The learned counsel submitted that, since the petitioner has now been transferred to a different station at Tirunelveli, there is no scope for any tampering of evidence or interfering with the enquiry. Hence, the learned counsel sought for the interference of this Court.

10.Per contra, the learned Additional Government Pleader appearing on behalf of the respondents submitted that the petitioner is



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involved in a corruption case and investigation done by the DV & AC is pending and that by itself shows the seriousness of the case. Therefore, the learned Additional Government Pleader submitted that considering the position that was held by the petitioner and the nature of incriminating materials that were recovered, the petitioner had to be kept under suspension in public interest. The learned Additional Government Pleader submitted that the earlier transfer order passed against the petitioner has nothing to do with the present order of suspension issued by the first respondent. Hence, the learned Government Additional Pleader sought for dismissal of this writ petition.

11. In the considered view of this Court, an order of suspension is normally interfered only where it is issued by an authority, who has no jurisdiction or it was issued by way of a punishment or there was a patent mala fide for issuing such a suspension order. In the present case, on going through the complaint made against the petitioner, which resulted in the registration of the criminal case for offences under the Prevention of Corruption Act, that by itself involves public interest considering the position that was held by the petitioner and the incriminating materials that were recovered from his office. Of course, the



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learned counsel for the petitioner submitted that the incriminating materials were planted and a false case was foisted against the petitioner.

This Court does not want to go into the defence that is taken by the petitioner and for the present, it will suffice if the nature of allegations made against the petitioner is taken into consideration.

12. Investigation of the criminal case is pending and the petitioner was suspended from service through the impugned Government Order in G.O.(2D).No.272 dated 25.07.2022 and he has faced suspension for nearly seven months. The petitioner has also made a representation to the second respondent seeking for revocation of suspension and the said representation is pending.

13. In view of the above, it will suffice, if a direction is issued to the second respondent to consider the representation made by the petitioner on 04.11.2022 and deal with the same on its own merits and in accordance with law and take a decision, within a period of four (4) weeks from the date of receipt of copy of this order. The petitioner is directed to make a fresh representation to the second respondent along with all the relevant documents and also a copy of this order.

