



WEB COPY



W.P.No.4648 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.4648 of 2023
and WMP Nos.4644 and 4646 of 2023

Mrs.Krishnaveni

...Petitioner

Vs

1. The District Collector,
Krishnagiri District,
Krishnagiri.
2. The Child Development Scheme Officer,
Krishnagiri Taluk, Krishnagiri District.
3. The Inspector of Police,
Krishnagiri Taluk Police Station,
Krishnagiri District

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the proceedings of the first respondent in Se.Mu.Na.Ka.No.905/A1/2022 dated 02.09.2022 and quash the same and consequently direct the first respondent to reinstate the petitioner into service with continuity services and applicable monetary benefits.



W.P.No.4648 of 2023

WEB COPY

For Petitioner : Mr.M.P.Saravanan

For Respondents : Ms.M.Jayanthi
AGP

ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.

2. In view of the petitioner's involvement in a criminal case in FIR.No.265 of 2022 dated 14.08.2022 for the offences under Section 294(b), 323, 324 506(ii) IPC, the petitioner was placed under suspension, through the impugned order dated 02.09.2022.

3. The guidelines governing a Government employee to be kept under prolonged suspension, has been dealt with by the Hon'ble Supreme Court in the case of ***Ajay Kumar Choudhary v. Union of India, (2015) 7 SCC 291*** at page 303, in the following manner:-

“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/charge-sheet is not



WEB COPY



W.P.No.4648 of 2023

served on the delinquent officer/employee; if the memorandum of charges/charge-sheet 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 person concerned 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 recognised principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognise that the 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.”

4. Admittedly, the criminal case has not concluded, the consequence of which, the petitioner is under suspension for more than 3 months. There is nothing on record to show that the respondents had passed a reasoned order for extension of the suspension period beyond 3



W.P.No.4648 of 2023

months as contemplated in *Ajay Kumar Choudary's case (supra)*.

Accordingly, the suspension order itself cannot be sustained.

5. In the light of the above observation, the impugned suspension order dated 02.09.2022 is revoked. Consequently, there shall be a direction to the respondents herein to reinstate the petitioner back into service with back wages from 02.9.2022 onwards, within a period of one week from the date of receipt of a copy of this order.

6. With the aforesaid direction, the Writ Petition is disposed of accordingly. No costs. The connected miscellaneous petitions are also closed.

21.02.2023

Index:Yes/No

Speaking order/Non-speaking order

sr

To

1. The District Collector,
Krishnagiri District,
Krishnagiri.

2. The Child Development Scheme Officer,



W.P.No.4648 of 2023

WEB COPY

Krishnagiri Taluk, Krishnagiri District.

3. The Inspector of Police,
Krishnagiri Taluk Police Station,
Krishnagiri District



WEB COPY



W.P.No.4648 of 2023

M.S.RAMESH,J.

SI

W.P.No.4648 of 2023

21.02.2023