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W.P.No.6353 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.6353 of 2022

M.Karthikeyan

...Petitioner

Vs

1.The District Collector,
Collectorate,
Coimbatore-641 018,
Coimbatore District.

2. The Personal Assistant to the District Collector (Development),
Collectorate, Coimbatore-641 018,
Coimbatore District

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to revoke the order of suspension dated 12.02.2021 made in Roc.No.1294/2021/T5 issued by the 1st respondent, by considering the petitioner's representation dated 04.03.2022.

For Petitioner : Mr.N.Manoharan

For Respondents : Mr.S.Prabakaran
Government Advocate



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ORDER

The petitioner, while serving as 'Panchayat Secretary', Kunnathur Panchayat, was placed under suspension by the first respondent herein, through an order dated 12.02.2021, which is impugned in the present Writ Petition. The petitioner's representation dated 04.03.2022 seeking for revocation of his suspension was not considered by the respondents and hence the present Writ Petition.

2.The Hon'ble Supreme Court, in the case of ***Ajay Kumar Choudhary v. Union of India***, reported in ***(2015) 7 SCC 291***, had set certain guidelines with regard to prolonged suspension. On a reference made by me, the Hon'ble Full Bench of this Court, in the case of ***P.Kannan Vs. Commissioner of Municipal Administration and others*** reported in ***(2022) 2 CTC 353***, had held that the judgement of the Apex Court, in the case of ***Ajay Kumar Choudhary (supra)***, does not lay down an absolute proposition of law that an order of suspension cannot be continued beyond the period of three months on the circumstances mentioned therein and that the order of suspension should be analysed on the facts of each case, considering the gravity of charges and the Rules



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applicable. It was further held that the revocation of the suspension with a direction to the employer to post the delinquent in a non-sensitive post, as held in *Ajay Kumar Choudhary's case (supra)*, also cannot be endorsed or directed as a matter of course.

3. In line with the orders passed by the Hon'ble Supreme Court, as well as the Hon'ble Full Bench of this Court, the Government, in G.O.(Ms) No.81, Human Resources Management (N) Department, dated 04.08.2022, had stipulated a compendium of instructions for review of suspension orders in matter which are pending enquiry into grave charges.

4. On consideration of these instructions in G.O.(Ms) No.81, this Court is of the view that the respondents herein could be directed to review the order of suspension, in accordance with the guidelines issued thereunder.

5. In the light of the above findings, there shall be a direction to



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M.S.RAMESH,J.

sr

the first respondent herein to consider the petitioner's representation dated 04.03.2022, seeking for revocation of the suspension order, in accordance with the instructions issued by the Government in G.O.(Ms).No.81, dated 04.08.2022, and pass appropriate orders, within a period of four weeks from the date of receipt of a copy this order.

6. Accordingly, the Writ Petition stands disposed of. No costs.

01.06.2023

Index: Yes

Speaking order

sr

To

1. The District Collector,
Collectorate,
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Coimbatore District.

2. The Personal Assistant to the District Collector (Development),
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