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W.P.No.7487 of 2022

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 28.11.2023+
CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.7487 of 2022
and WMP Nos.7493 and 7494 of 2022

P.Panneerselvam

...Petitioner

Vs

1. The Inspector General of Registration,
100, Santhome High Road,
Chennai-600 028.

2. The District Registrar,
Administration,
Nerperuchal, Thiurpur,
Thirupur District

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the 1st respondent's impugned proceedings in ROC No.37859/V3/2020-3 dated 15.12.2020 and quash the same as null and void.

For Petitioner : Mr.G.Thangavel
For Respondents : Mr.M.Bindran
AGP



W.P.No.7487 of 2022

ORDER

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Heard Mr.G.Thangavel, learned counsel for the petitioner and Mr.M.Bindran, learned counsel for the respondents.

2. In contemplation of a domestic enquiry into grave charges, the petitioner was placed under suspension through impugned order dated 15.12.2020. Challenging the order of suspension, the present writ petition has been filed.

3. Learned counsel for the petitioner submitted that prolonged suspension more than three years is unsustainable in the eye of law and it is also against G.O.(Ms) No.81, Human Resources Management (N) Department, dated 04.08.2022.

4. Learned Additional Government Pleader, however, submit that after suspension order, charges have been framed against the petitioner herein on 08.03.2021 under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and one of the charges is that a criminal case



W.P.No.7487 of 2022

WEB COPY

has also been registered against the petitioner in Cr.No.2 of 2021 and in view of the involvement of a criminal case, G.O.(Ms) No.81, Human Resources Management (N) Department, dated 04.08.2022 will not apply.

5. The Hon'ble Supreme Court, in the case of ***Ajay Kumar Choudhary v. Union of India***, reported in ***(2015) 7 SCC 291***, had laid certain guidelines with regard to prolonged suspension. As per the guidelines, the currency of a suspension order should not extend beyond three months, if within this period the memorandum of charges/charge-sheet is not 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.

6. 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 matters which are pending enquiry into grave charges.



W.P.No.7487 of 2022

WEB COPY

7. In the instant case, after the suspension order was passed on 15.12.2020, charges were framed against the petitioner on 08.03.2021 within a period of three months. In the light of the directions of the Hon'ble Supreme Court in the case of ***Ajay Kumar Choudhary v. Union of India***, reported in ***(2015) 7 SCC 291*** as well as G.O.(Ms) No.81, Human Resources Management (N) Department, dated 04.08.2022 , there was duty cast upon the respondents to pass speaking order to justify as to why the suspension period should be extended to the petitioner.

8. The respondents have filed a counter affidavit, in which, no reference has been made to any such order being passed for extension of the suspension period. In the absence of the same, the suspension order itself cannot be sustained, since it is in violation of the directions issued in the case of ***Ajay Kumar Choudhary*** as well as G.O.(Ms) No.81 dated 04.08.2022.



W.P.No.7487 of 2022

WEB COPY

9. The learned Additional Government Pleader submitted that one of the charges against the petitioner is that he is involved in a criminal case and therefore, the guidelines in G.O.(Ms) No.81 dated 04.08.2022 will not be applicable.

10. I am not in agreement with such submission. The order of suspension came to be passed on 15.12.2020 in contemplation of an enquiry into grave charges. The criminal case in Cr.No.2 of 2021 was registered on 26.01.2021 and when the petitioner was not placed under suspension for his involvement in the criminal case, his subsequent involvement in the criminal case will not entitle the respondents to place reliance on G.O.(Ms) No.81, Human Resources Management (N) Department, dated 04.08.2022 and reject his request.

11. In the light of the above observation, the impugned suspension order dated 15.12.2020 is hereby revoked. Consequently, there shall be a direction to the respondents herein to reinstate the petitioner, back into service within a period of one week from the date of receipt of a



W.P.No.7487 of 2022

copy of this order. The Writ Petition stands allowed, accordingly. No costs. The connected miscellaneous petitions are also closed.

WEB COPY

28.11.2023

Index:Yes
Internet:Yes
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W.P.No.7487 of 2022

To

1. The Inspector General of Registration,
100, Santhome High Road,
Chennai-600 028.
2. The District Registrar,
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WEB COPY



W.P.No.7487 of 2022

M.S.RAMESH,J.

sr

W.P.No.7487 of 2022

28.11.2023