



WP.No.24725/2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.08.2023

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

WP.No.24725/2016 & WMP.Nos.21118/2016 & 6911/2018

A.Chinnasamy

... Petitioner

Versus

1.The Principal Secretary cum-
Commissioner of Revenue Administration
Revenue Department, Chepauk,
Chennai 600 005.

2.The District Collector
Salem District, Collectorate
Salem-1.

3.The District Collector,
Nilgiris District, Collectorate
Nilgiris District 643 001.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records relating the proceedings dated 28.04.2016 made in ROC.No.48144/2010/[A2] and ROC.No.48144/2010-1/[A2] passed by the 2nd respondent herein and quash the same as illegal and direct the 3rd



WP.No.24725/2016

respondent herein to reinstate the petitioner in service with all service and all monetary benefits till date.

For Petitioner : Mr.C.S.Dhanasekaran

For Respondents : Mr.V.Nanmaran, AGP

ORDER

- (1) The writ petition has been filed in the nature of a certiorarified mandamus seeking records relating to the proceedings dated 28.04.2016 passed by the 2nd respondent herein, the District Collector, Salem, in ROC.No.48144/2010/[A2] and to quash the same as illegal and to direct the 3rd respondent herein, the District Collector, Nilgiris District, to reinstate the petitioner in service with all service and all monetary benefits till date.
- (2) The petitioner was working as Tahsildar at Valappadi Taluk in Salem District. At that time, on a complaint given for demand of bribe, a trap was laid by the Vigilance and Anti Corruption Department. It is stated that the trap was successful and the petitioner was caught in the act of receiving the bribe amount. Thereafter, the petitioner was



WP.No.24725/2016

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placed under suspension by an order dated 30.05.2014 by the District Collector, Salem. Questioning that particular order, the petitioner filed WP.No.32401/2015 stating that he had been placed under suspension for a considerably long period of time which is against the generally accepted jurisprudence relating to service law. A Learned Single Judge of this Court by an order dated 12.10.2015 in WP.No.32401/2015, had placed reliance on a judgment of the Hon'ble Supreme Court reported in **2015-3-CTC-110 [Ajay Kumar Choudhary Vs. Union of India and Others]**, wherein it had been held that currency of suspension should not ordinarily extend beyond three months and the Hon'ble Supreme Court had also stated that if for some reason, it should extend beyond the period of three months, then the Government can always think of other possibilities of transferring the public servant to any other post and ensure that he does not interfere with the on-going enquiry or with the investigation if any criminal case had been initiated against him. Placing reliance on the above said dictum, the learned Single Judge, in the said order in the writ petition, had observed that the petitioner could be



WP.No.24725/2016

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transferred to any other post and had also remanded the matter back before the District Collector, Salem, for further consideration.

- (3) Consequent to the said order, the order of suspension was revoked by an order dated 04.01.2016 by the District Collector, Salem. The petitioner was then transferred to Nilgiris District and was directed to appear before the District Collector, Nilgiris, by an order dated 08.01.2016 issued by the District Collector, Salem and thereafter, the District Collector, Salem, once again reviewed the entire issue consequent to the remand by the learned Single Judge and the impugned order came to be passed on 28.04.2016 by the District Collector, Salem in Roc.No.48144/2010/A2. In the said Impugned Order which is now questioned before this Court, after narrating the sequence of events, it had been stated that taking recourse to sub-rule [e] of Rule 17 of the Tamil Nadu Civil Services [Discipline and Appeal] Rules, the petitioner herein who was working as Special Tahsildar [ADW], Gudalur, Nilgiris District, is placed under suspension from service until further orders. It was also directed that the petitioner could file an appeal before the Principal Secretary /



WP.No.24725/2016

WEB COPY

Commissioner of Revenue Administration, within a period of thirty days from the date of receipt of that particular order. Consequential orders were also passed on the same day by the District Collector, Salem, wherein he had stated that the salary during the period of suspension shall not exceed the pension which would have accrued on the date of superannuation of the petitioner herein.

- (4) The petitioner had attained the age of superannuation on 30.04.2016. It was also stated that the order is subject to the final outcome of EP.No.51/2008 in OS.No.458/1993 which was pending before the District Munsif Court, Attur at Salem District. It was again contended that the petitioner herein could file an Appeal within a period of thirty days before the Principal Secretary / Commissioner of Revenue Administration. It is contended on behalf of the petitioner herein that the petitioner is still kept under suspension and that, no terminal benefits had been paid to him. It is also stated that however, the criminal case which had been registered against him for demand and acceptance of bribe is still pending trial before the Special Court for Vigilance and Anti Corruption Act Cases at Salem. It is stated on



WP.No.24725/2016

behalf of the respondents that the next hearing date is 01.09.2023.

So far as the Execution Petition aforementioned is concerned, the respondents had filed an application under Section 47 of the Code of Civil Procedure, which however, suffered an order of dismissal and questioning that particular dismissal, it is contended that a review is now pending.

- (5) It is thus seen that the entire issues are pending consideration at various Forums. The criminal case is now pending before the Special Court for Vigilance and Anti Corruption Act Cases at Salem and the Review Petition, consequent to the orders under Section 47 of CPC in EP.No.51/2008 in OS.No.458/1993, is pending before this Court. It is, no doubt true that the petitioner has been placed under suspension for a considerable period of time as on date. But, however, he must ensure that the criminal case comes to a quick end. The details of the flow of the said case have not been forwarded to this Court to find out whether the delay is either owing to the prosecution there or owing to the petitioner not cooperating with the prosecution. Either way, there was a right to appeal against the impugned order. But, somehow, the



WP.No.24725/2016

petitioner had filed the present writ petition.

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- (6) Since the order under question is dated 28.04.2016, the District Collector, Salem, is directed to once again review the entire records so far as the petitioner is concerned, since the petitioner had subsequently attained the age of superannuation, and since the earlier order was subject to the orders in EP.No.51/2008 in OS.No.458/1993 before the District Munsif Court at Attur, Salem, which had also come to a conclusion and subsequent orders have been passed by this Court in CRP.No.3078/2017 dated 01.12.2022 and in which, CMP.No.18712/2022, an application filed to condone the delay in filing the review application, is pending. In view of the pendency of this application and since there is a substantial change in circumstances, the District Collector, Salem, may once again revisit the order of suspension and examine the order to be now passed in view of the present situation wherein the petitioner is placed.
- (7) Such orders to be passed within a period of six weeks from the date of receipt of a copy of this order.



WP.No.24725/2016

(8) The writ petition stands **disposed of**. No costs. Consequently,
connected miscellaneous petitions are closed.

28.08.2023

AP

Internet : Yes

To

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WP.No.24725/2016

C.V.KARTHIKEYAN, J.,

AP

WP.No.24725/2016

28.08.2023