



WEB COPY



WP.No.21680 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2023

CORAM

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

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M.Jayaraj

.. Petitioner

Versus

1.The Commissioner of Police
O/o.The Commissioner of Police
Greater Chennai
Vepery, Chennai – 600 007

2.The Additional Commissioner of Police
O/o.The Additional Commissioner of Police
Traffic Investigation Wing
Kilpauk, Chennai – 600 010

3.The Joint Commissioner of Police
Traffic Investigation Wing-North
Vepery, Chennai – 600 007

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records culminating in the Order of Suspension dated 20.11.2013 bearing C.No.748/30478/Tr.PR/2013, T.Z.O.965/2013 passed by the 3rd respondent and the consequential impugned reply dated 31.07.2020 bearing R.C.No.744/30478/Tr.PR/2013 issued by the 2nd respondent and quash the same and direct the 2nd respondent to reinstate the petitioner into any non-sensitive posting in the department.

For Petitioner : Mr.S.V.D.Rajendra Prasad

For Respondents : Mr.S.Rajesh
Government Advocate



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ORDER

This writ petition has been filed challenging the suspension order issued by the third respondent as against the petitioner vide proceedings in C.No.748/30478/Tr.PR/2013, T.Z.O.965/2013 dated 20.11.2013 as well as the reply issued by the second respondent in R.C.No.744/30478/Tr.PR/2013 dated 31.07.2020, quash them and consequently direct the 2nd respondent to reinstate the petitioner into any non-sensitive posting in the department.

2. The case of the writ petitioner is that he was arrested for having involved in Anti Corruption activities on 18.11.2013 and remanded to the custody. Pursuant to the charges framed under Prevention of Corruption Act, he was placed under suspension vide impugned proceedings dated 20.11.2013. His representation seeking revocation of suspension is also rejected by the second respondent vide impugned proceedings dated 31.07.2020. Challenging the same, this writ petition.

3. It is the contention of the learned counsel for the petitioner that he is in prolonged suspension from the year 2013. Therefore, seeks this Court to direct the respondent to consider revisiting the prolonged suspension.

4. Heard both sides and perused the materials placed on record. It is



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relevant to note that the Government has passed Government Order in G.O.Ms.No.81, Human Resources Management (N) Department dated 04.08.2022, wherein, Clause 11 (xi) reads as follows:

"...(xi). In cases where the charge in the criminal case involves complicated questions of law and fact and the disciplinary authority is not in a position to finalise the departmental disciplinary proceeding and if the criminal case is based on the vigilance report and is pending before the Court of law for which no reasons are explained explicitly, the authority competent may take a decision by taking up review of suspension and post the Government Servant in a non sensitive place in consultation with the appropriate investigating authority/Vigilance Commission on case to case basis in view of the reason that prolonged suspension and paying subsistence allowance for a long period without extracting work is not at all acceptable. Such revocation of suspension can be made based on the facts of each case and after noticing the reason for the delay in servicing the memorandum off charges/charge sheet. The decision of the Hon'ble High Court of Madras in P.Kannan case given in para 5 above shall be taken into account."

5. Considering the above guidelines issued by the Government, the petitioner who is also in prolonged suspension and the departmental proceedings is based on the facts of the criminal case, the disciplinary authorities may consider revisiting suspension as per the guidelines referred



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above and pass appropriate orders on merits within three months from the date of receipt of a copy of this Order.

6. Accordingly, this writ petition stands disposed of. No costs.

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dhk

Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No



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N.SATHISH KUMAR, J.



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