



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Appeal No.2209 of 2023

M.Balamurugan

.. Appellant

Versus

1. The State,
Rep. by the District Collector,
Mayiladuthurai District.
2. The Inspector of Police,
Vigilance and Anti - corruption,
Nagapattinam.

.. Respondents

Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 03.07.2023 passed by the learned Judge in WP.No.19281 of 2023.

For Appellant : Mr.J.Ravikumar

For Respondents : Mr.P.Kumaresan, AAG Assisted by
Mrs.S.Anitha, Special Government Pleader

JUDGMENT

(Judgment of the Court was delivered by R. MAHADEVAN, J.)

This writ appeal arises from the order passed by the learned Judge in W.P.No.19281 of 2023, on 03.07.2023.



WEB COPY

2.The appellant preferred the aforesaid writ petition, praying for issuance of a writ of mandamus, directing the first respondent to revoke the order of suspension in RC.No.8947/2021/A4 dated 07.09.2021 and to reinstate him into service with all his monetary benefits, with retrospective effect.

3.By the order impugned herein, the learned Judge has proceeded to dismiss the writ petition on the premise that once a person is involved in serious offences, as a matter of right, suspension cannot be revoked. Aggrieved by the same, the appellant / writ petitioner has preferred this writ appeal.

4.Mr.J.Ravikumar, learned counsel for the appellant would contend that while the appellant was functioning as Special Tahsildar in Social Security Scheme at Tharangampadi, he was placed under suspension on 07.09.2021, in connection with the case in Crime No.9/2021 registered for the offence under section 7(a) of the Prevention of Corruption Act, 1988 as amended by the Prevention of Corruption (Amendment) Act, 2018, due to which, he was arrested and remanded to judicial custody. Subsequently, he was issued with charge memo under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, on two counts, to which, he submitted his explanation within the stipulated time, but, till date, no enquiry officer was appointed. The learned counsel would further submit that the appellant sent a representation dated 29.08.2022 to the first respondent/District Collector,



WEB COPY

requesting to revoke the suspension and reinstate him into service, in the light of the guidelines issued in G.O.(Ms)No.81 Human Resources Management (N) Department dated 04.08.2022. Upon receipt of the same, the first respondent sent a communication dated 14.10.2022, to the Director of Vigilance and Anti-corruption, Chennai, stating that the request of the official under suspension, could be considered after filing of the charge sheet by the vigilance and Anti-Corruption Department. Thereafter, the Superintendent of Police, Central Range, vide his letter dated 01.02.2023, addressed to the first respondent, stated that the decision on the revocation of suspension of the accused may be taken at your end, on merits. In the mean while, the first respondent by proceedings dated 13.07.2023, has appointed one Thiru R.Venu, Special Deputy Tahsildar, Revenue Court, Mayiladuthurai, as an Enquiry Officer to enquire into the charges framed against the appellant. However, by the communication dated 22.07.2023 sent by the Additional Chief Secretary / Commissioner of Revenue Administration, Chepauk, Chennai, it was learnt that the enquiry officer so appointed, was reverted back to the post of Tahsildar, as per the order of the Supreme Court, dated 11.09.2018 in Civil Appeal Nos.9334 to 9336 of 2018 in SLP (C) Nos.5588, 5589 and 7651 of 2006. It is also submitted that in crime No.9/2021, charge sheet was filed and the case was taken on file as Special CC No.4 of 2022, which stood adjourned to 08.08.2023 for trial. Thus, according to the learned counsel, the appellant was placed under suspension with effect from 07.09.2021, without even appointing an enquiry officer, till date. The learned Judge,



without considering all these factors in proper perspective, has dismissed the writ petition, hastily with perversity, by the order impugned herein, which will have to be set aside by this court and the first respondent may be directed to revoke the suspension and reinstate the appellant in service with all the monetary benefits with retrospective effect, after following the guidelines issued in G.O.No.81 dated 04.08.2022.

5.On the other hand, Mr.P.Kumaresan, learned Additional Advocate General appearing for the respondents submitted that a new Enquiry Officer has now been appointed and he will complete the enquiry and file his report, within a time frame to be stipulated by this court.

6.In view of the present position as stated above, we direct the authority concerned to complete the enquiry with regard to the charges framed against the appellant and file his report, on merits and in accordance with law, after affording an opportunity of personal hearing to the appellant, within a period of 12 weeks from the date of receipt of a copy of this judgment. If the enquiry report is not filed within the time stipulated, the first respondent shall consider the claim of the appellant for revocation of suspension and reinstatement into service, and pass orders, one way or other, in the light of G.O.(Ms.)No.81, HRM(N) Department, dated 04.08.2022, as expeditiously as possible.



WEB COPY

7. With the above directions, the Writ Appeal stands disposed of. There shall be no order as to costs.

[R.M.D., J.] [M.S.Q., J.]
17.10.2023

Index : Yes / No
Internet : Yes / No
av

To

1. The District Collector,
Mayiladuthurai District.
2. The Inspector of Police,
Vigilance and Anti - corruption,
Nagapattinam.



WEB COPY



W.A.No.2209

R. MAHADEVAN, J
and
MOHAMMED SHAFFIQ, J

av

Writ Appeal No.2209 of 2023

17.10.2023