



W.P.No.26633 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.26633 of 2023
and
W.M.P.No.26069 of 2023

S.Anandakumar

... Petitioner

Vs.

The Revenue Divisional Officer,
Udumalpet,
Tiruppur District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records connected with the Ref. 411/2019/ A1 dated 02.03.2019 passed by the respondent and quash the same and consequently direct the respondent to reinstate the petitioner into service.

For Petitioner : Mr.S.Ilamvaludhi

For Respondent : Mr.M.Alagu Gowtham
Government Advocate



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ORDER

This writ petition has been filed challenging the order of the respondent, dated 02.03.2019, placing the petitioner under suspension.

2.The case of the petitioner is that he was arrested in a trap case on 01.03.2019 and remanded to custody and subsequently, he was released on bail on 07.03.2019. Pursuant to the charges framed under Prevention of Corruption Act, he was placed under suspension vide impugned proceedings dated 02.03.2019. Challenging the same, the present writ petition has been filed.

3.It is the contention of the learned counsel for the petitioner that the petitioner is under prolonged suspension and the criminal case is still pending since four years. Therefore, the learned counsel prays for a direction to the respondent to revisit the order of suspension.

4.Heard the learned counsel for the petitioner and Mr.M.Alagu Gowtham, learned Government Advocate, who takes notice for the respondent.



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5.It is 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.”

6.Considering the above guidelines issued by the Government



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and also considering the fact that the petitioner is placed under prolonged suspension and the departmental proceedings is based on the facts of the criminal case, the disciplinary authorities may consider revisiting the suspension as per the guidelines referred above and pass appropriate orders on merits, within three months from the date of receipt of a copy of this order.

7. Accordingly, this writ petition stands disposed of. Consequently, connected miscellaneous petition is closed. No costs.

12.09.2023

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Internet : Yes

Index : Yes / No

Neutral citation : Yes / No

Speaking order / Nonspeaking order

To

The Revenue Divisional Officer,
Udumalpet,
Tiruppur District.

N. SATHISH KUMAR, J.

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