



WEB COPY



W.P.No.26718 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2023

CORAM :

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

W.P.No.26718 of 2023

and

W.M.P.Nos. 26154, 26155 & 27795 of 2023

S.Balraj

..Petitioner

VS

1.The Director General of Police
DGP Office, Kamarajar Salai,
Chennai – 04.

2.The Deputy Inspector General of Police,
Office of the Dy.Inspector General of Police,
Tiruchirapalli Range,
Tiruchirapalli.

3.The Superintendent of Police,
Perambalur District, Perambalur.

4.The Additional Superintendent of Police,
Headquarters, Perambalur District,
Perambalur.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of a certiorarified mandamus calling for the records of the 2nd respondent in R.O.No.89/211 dated 22.04.2021 and the consequential order in C.No.B1/34/2021 dated .01.2023 (signed on 25.01.2023) and quash the same and further direct the respondents to reinstate petitioner in a non-sensitive post.

(prayer amended vide order dated 27.09.2023 made in W.M.P.No.27792 of 2023 in W.P.No.26718 of 2023)



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For Petitioner : Mr.L.Chandrakumar
for Mr.M.Muthappan

For Respondents : Mr.S.Rajesh
Government Advocate

ORDER

Writ petition has been filed challenging to quash the impugned order dated 22.04.2021 with a consequential direction to re-instate the petitioner into service and post him in a non-sensitive post.

2. The petitioner joined the Police Department as Sub-Inspector of Police by way of direct recruitment and thereafter promoted as Inspector of Police. While serving as Inspector of Police in Perambalur Police Station he was charged for alleged demand of Rs.50,000/- for releasing two lorries seized under illegal mining. Pursuant to arrest, he was placed under suspension by order dated 22.04.2021. The petitioner gave a representation to revoke the suspension.

3. Initially, he filed writ petition in W.P.No.32117 of 2022 for a direction to consider the representation in this Court. This Court by order dated 30.11.2022 directed the respondents to



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consider the representation of the petitioner seeking revocation of his suspension and pass orders on the same. Now, the impugned order has been passed rejecting the representation, which has been put to challenge before this Court.

4. Learned counsel for the petitioner would submit that the petitioner has been suspended only on the basis of the criminal case pending against him. According to him, even the departmental proceedings had been cancelled and not proceeded further. Therefore, keeping the petitioner in prolonged suspension will not serve any purpose and in fact it will affect his career. The criminal case itself is foisted with motive. Therefore, till the criminal case got concluded, the petitioner may not be kept in prolonged suspension. Hence prays for quashing the impugned order dated 22.04.2021.

5. On behalf of the official respondents, no counter affidavit is filed. However, on instructions, it is submitted that the department had cancelled the departmental enquiry vide proceedings of the Deputy Inspector General of Police, Tiruchirappalli Range in C.No.B1/34/2021 dated 19.05.2023. However, the suspension order has been retained since the



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criminal case is pending against the petitioner.

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6. Heard the learned counsel on either side and perused the materials, particularly the order cancelling the departmental proceedings referred to above.

7. The departmental proceedings initiated against the petitioner on the basis of the criminal complaint has already been cancelled. Therefore, when the departmental proceedings itself had been cancelled, keeping the petitioner in prolonged suspension will not serve any purpose. In fact, the same will lead to a loss to the exchequer by paying subsistence allowance without even extracting any work from the government servant. Now the suspension order had been retained only on the ground of pendency of the criminal case. It is relevant to note that when the departmental proceedings itself had been cancelled, the Department need not wait the outcome of the criminal case. It is well settled that the moment a person is convicted in a criminal case even without resorting to any departmental proceedings, the punishment can be imposed under Rule 17(c) of TNCCS (D & A) Rules, 1955. A similar provision is also available in Rule 3(c)(i)(1)



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of the Tamil Nadu Police Discipline and Appeal Rules. Therefore, this Court is of the view that since the departmental enquiry had already been dropped, the prolonged suspension will not serve any purpose. In fact, it will cause huge loss to the public exchequer.

8. In such view of the matter, the impugned order dated 22.04.2021 is hereby quashed. The respondents are directed to reinstate the petitioner into service and post him in a non-sensitive post. The writ petition stands allowed. No costs. Connected miscellaneous petitions are closed.

27.09.2023

Index:Yes/No
Neutral Citation:Yes/No
ssm

To

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N.SATHISH KUMAR,J.

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