



W.P.No.30643 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.30643 of 2023

&

W.M.P.Nos,30295 and 30297 of 2023

A.Ravichandran

...Petitioner

Vs

1. Government of Tamil Nadu
Represented by its Agircultural Production
Commissioner and Secretary to Government
Agriculture – Farmers Welfare (Ve Ni 7) Depaerment
Chennai – 600 009

2. The Director of Agriculture
Chepauk, Chennai – 600 005

3. The Joint Director of Agriculture
Villupuram District

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records from the second respondent in his impugned order (i)Proc.No.DCS/1/71678/2020 dated 21.08.2020, (ii) G.O.(3D) No..85 dated 09.08.2021 passed by the first respondent and (iii) G.O (2D) No.170 dated 02.09.2023 passed by the first respondent and to quash



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the same and issue consequential directions to the respondent to reinstate the petitioner in service and to disburse all service and monetary benefits.

For Petitioner : Ms.Shabnam Banu

For Respondents : Mr.M.Alagu Gowtham
Government Advocate

ORDER

The petitioner, while serving as an Assistant Director of Agriculture in Villupuram District, was placed under suspension through an order dated 21.08.2020 in contemplation of enquiry in grave charges against him. The order of suspension was reviewed through G.O (3D) No.85, Agriculture and Farmers' Welfare (AA.7) Department, dated 09.08.2021 and the petitioner's suspension was further extended. When the petitioner had once again sought for review of the suspension order, this Court, by an order dated 12.07.2022 passed in W.P.No.15698 of 2020, had directed the respondents to consider the petitioner's representation in this regard. In consequence to such a direction, the Government had rejected his request through G.O (2D) No.170, Agriculture and Farmers' Welfare (AA.7) Department, dated 02.09.2023. Challenging the suspension



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order, as well as the subsequent Government Orders dated 09.08.2021 and 02.09.2023, the present writ petition has been filed.

2. The learned counsel for the petitioner submitted that the petitioner is not involved in any criminal case and that his name does not find a place in the First Information Report that was registered on 05.09.2020 for which purpose the petitioner is now placed under suspension and therefore, seeks for revocation of the suspension order.

3. Per contra, learned Additional Government Pleader would submit that after the petitioner was placed under suspension, charges were levelled against him on 04.09.2020 under Rule 17(b) of Tamil Nadu Civil Services (Disciplinary and Appeal) Rules, 1955 and the same is pending. He also submitted that, after the interim suspension order, the Government had reviewed the order and extended the same till further orders on 09.08.2021 and therefore, in view of the pendency of the disciplinary proceedings, the suspension order need not be revoked.



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4. The Hon'ble Supreme Court in the case of *Ajay Kumar Choudhary v. Union of India* reported in (2015) 7 SCC 291, had issued certain guidelines for prolonged suspension of Government employees. Among such guidelines, it was held that currency of a suspension order should not be extended beyond the period of three months, if within this period, the memorandum of charges/charge-sheet has not been served on the delinquent officer. In case the memorandum of charges/charge-sheet is served, a reasoned order must be passed for the extension of the suspension. Following the decision of Hon'ble Supreme Court in *Ajay Kumar Choudhary's* case, several orders came to be passed by this Court in cases of prolonged suspension, when the respondents have failed to review the suspension order periodically.

5. In line with these decisions of the Hon'ble Supreme Court, as well as the Hon'ble Full Bench of this Court, G.O.(Ms) No.81, Human Resources Management (N) Department, dated 04.08.2022 came to be passed. As per the said Government Order, in cases where the delinquent officer is not involved in a criminal case, but is facing departmental action



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for certain alleged misconduct or irregularities, it was ordered that Head of the Department or the Government should examine the cases with reference to the subject matter of disciplinary action and report stage of progress and review the suspension order at the end of every three months. However, these guidelines would not be applicable to the Government servants against whom criminal proceedings have been initiated.

6. In the instant case, an FIR came to be registered in Crime No.3 of 2020 dated 05.09.2020, in which the petitioner's name does not find place in the list of accused. This aspect was also recorded by this Court in its order passed in W.P.No.15698 of 2020 dated 12.07.2022. It is also admitted by the respondents themselves that till date, the charge sheet /final report has not been filed in the criminal case. Thus, there is absolutely no material before the respondents to come to the conclusion that petitioner is involved in a criminal case. If that be so, the mandate under G.O.(Ms) No.81 dated 04.08.2022 requires the Government to review the petitioner's suspension and the progress of the case every three months.



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7. In the instant case, after the petitioner was placed under suspension on 21.08.2020, the first review of the suspension took place on 09.08.2021. Thereafter no further review was made which is apparently in contravention of the guidelines prescribed under G.O.(Ms) No.81, Human Resources Management (N) Department, dated 04.08.2022.

8. When the petitioner had made an application seeking for such a review, the same was also kept pending without passing any orders which prompted the petitioner to file a writ petition before this Court and in view of the orders passed, the petitioner's request came to be rejected through an order dated 02.09.2023. When admittedly the petitioner is not involved in any of the criminal case and the Government had also failed to review the order of suspension in every three months, such a prolonged suspension would be in violation of the dictum laid down by Hon'ble Supreme Court in *Ajay Kumar Choudhary's* case, as well as the G.O. (Ms) No. 81 dated 04.08.2022. In view of the same, the petitioner's order of suspension cannot be allowed to continue any further.

9. In the result, impugned order dated 21.08.2020 bearing reference Proc.No.DCS/1/71678/2020 G.O.(3D) No.170 dated



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02.09.2023 and Government Orders G.O.(3D) No..85 dated 09.08.2021 and G.O (2D) No.170 dated 02.09.2023 passed by the first respondent are quashed. Consequently, the respondent shall forthwith reinstate the petitioner back into service, atleast within a period of two days from the date of receipt of a copy of this order.

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Index:Yes/No
Speaking order/Non-speaking order
gpa

To

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M.S.RAMESH,J.

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