



W.P.No.31903 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.31903 of 2023
and W.M.P.Nos.31486 and 31487 of 2023

S.Sankar

...Petitioner

Vs

1.The Additional Chief Secretary to Government
Home (SC) Department, Fort St.George
Chennai 600 009.

2.The Director General of Police
No.1, Kamarajar Salai, Mylapore
Chennai 600 004.

3.The Additional Director General of Police
Armed Police, Chennai 600 010.

4.The Commandant
Tamil Nadu Special Police V Battalion
i/c of Tamil Nadu Special Police II Battalion
Avadi, Chennai 600 109.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent in relation to the order of suspension issued in G.O.(D) No.491, Home (SC) Department dated 28.06.2012 and quash the same and issue a consequential direction to the respondents to forthwith permit the petitioner to retire from service on the date of superannuation 30.06.2012 and release all terminal benefits eligible to the petitioner from the date of retirement



W.P.No.31903 of 2023

including DCRG, Surrender Leave and other monetary benefits and arrears of pension from 30.06.2012 under Pension Rules with all benefits together with interest @ 18% p.a.

For Petitioner : Mr.S.Hemalatha

For Respondent : Mr.M.Alagu Gowtham
Government Advocate - for R1 to R3

ORDER

With the consent of both the parties, this writ petition is taken up for final disposal at the stage of admission itself.

2. On the ground of prolonged suspension, the petitioner seeks for interference to the suspension order through the present Writ Petition.

3. The Hon'ble Supreme Court, in the case of ***Ajay Kumar Choudhary v. Union of India***, reported in ***(2015) 7 SCC 291***, had set certain guidelines with regard to prolonged suspension. On a reference made by me, the Hon'ble Full Bench of this Court, in the case of ***P.Kannan Vs. Commissioner of Municipal Administration and others*** reported in ***(2022) 2 CTC 353***, had held that the judgement of the Apex Court, in the case of ***Ajay Kumar Choudhary (supra)***, does not lay down an absolute proposition of law that an order of suspension cannot be continued beyond



W.P.No.31903 of 2023

the period of three months on the circumstances mentioned therein and that the order of suspension should be analysed on the facts of each case, considering the gravity of charges and the Rules applicable. It was further held that the revocation of the suspension with a direction to the employer to post the delinquent in a non-sensitive post, as held in **Ajay Kumar Choudhary's case (supra)**, also cannot be endorsed or directed as a matter of course.

4. In line with the orders passed by the Hon'ble Supreme Court, as well as the Hon'ble Full Bench of this Court, the Government, in G.O.(Ms) No.81, Human Resources Management (N) Department, dated 04.08.2022, had stipulated a compendium of instructions for review of suspension orders in matter which are pending enquiry into grave charges.

5. On consideration of these instructions in G.O.(Ms) No.81, this Court is of the view that the respondents herein could be directed to review the order of suspension, in accordance with the guidelines issued thereunder.

6. In the light of the above findings, there shall be a direction to the respondents herein to consider the petitioner's request letter dated 13.12.2022, seeking for revocation of the suspension order, in accordance



WEB COPY



W.P.No.31903 of 2023

M.S.RAMESH, J.

KST

with the instructions issued by the Government in G.O.(Ms).No.81, dated 04.08.2022, and pass appropriate orders, within a period of two weeks from the date of receipt of a copy this order.

7. Accordingly, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

08.11.2023

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

To

- 1.The Additional Chief Secretary to Government
Home (SC) Department, Fort St.George
Chennai 600 009.
- 2.The Director General of Police
No.1, Kamarajar Salai, Mylapore
Chennai 600 004.
- 3.The Additional Director General of Police
Armed Police, Chennai 600 010.
- 4.The Commandant
Tamil Nadu Special Police V Battalion
i/c of Tamil Nadu Special Police II Battalion
Avadi, Chennai 600 109.

W.P.No.31903 of 2023