



W.P.No.31938 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.31938 of 2023
and W.M.P.No.31519 of 2023

P.Murugan

...Petitioner

Vs

1.The District Collector
Salem District, Salem.

2.The Personal Assistant to District Collector
(Development / Panchayat), Office of the
District Collector, Salem-1, Salem District.

3.The Assistant Director
Panchayats, Salem District, Salem.

4.The Block Development Officer
Village Panchayat Panamarathupatti
Panchayat Union, Panamarathupatti
Salem District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to revoke the order of suspension of the petitioner dated 14.10.2017 based his application dated 25.09.2023 as per the direction issued by the Government of Tamil Nadu in G.O.Ms.No.81, Human Resources Management (N) Department dated 04.08.2022 and consequently direct the respondents to pay the subsistence allowance to the petitioner from the date of his suspension ie., 14.10.2017 to till date along with arrears for protecting his livelihood.



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For Petitioner : Mr.R.Jothimanian
For Respondent : Mr.V.P.R.Elamparithi
Additional Government Pleader
-for RR 1 to 3
Mr.K.Tippu Sulthan
Government Advocate - for R4

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 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



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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 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.



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7. It is stated by the learned counsel for the petitioner that, during the period of suspension he was not paid the subsistence allowance. It is needless to point out that when an employee is placed under suspension, he would be entitled for subsistence allowance. In that view of the matter, there shall be a direction to the fourth respondent to **forthwith** disburse the entire subsistence allowance and continue to pay the subsistence allowance till the suspension order is revoked.

8. Accordingly, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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



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To

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M.S.RAMESH, J.

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