



W.P.No.32365 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.32365 of 2023

S.Malathi
W/o.S.Rajagopal

...Petitioner

Vs

1. The Principal Secretary
Health Department
Secretariat
St.George Fort
Chennai-600 009.
2. The Director
Directorate of Medical Education
Kilpauk
Chennai-600 010.
3. The Dean
O/o.Dean
Government Medical College Hospital
Uthagamandalam
Nilgiris District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned orders passed by the 2nd respondent dated



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16.04.2020 vide his proceedings in Ref. No.9758/ SC2/1/2012 and dated 24.04.2020 vide his proceedings in Ref.No.9758/SC2/1/2012 and quash the same as illegal and violative of principles of natural justice and consequently direct the Respondent Nos. 1 to 3 to permit the petitioner to retire from service and disburse retirement benefits and pension to her based on her representation dated 10.08.2023.

For Petitioner : Mr.S.Sankar
For Respondents : Mr.M.Alagu Gowtham
Government Advocate

ORDER

With the consent of both the parties, this Writ Petition is taken up for final disposal at the admission stage 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



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'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 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 inquiry into grave charges.



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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 representation dated 10.08.2023, seeking for disbursement of retirement benefits and pass appropriate orders, within a period of four (4) weeks from the date of receipt of a copy this order.

7. Accordingly, the Writ Petition stands disposed of. No costs.

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Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation : Yes/No

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M.S.RAMESH,J.

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