



W.P.No.32893 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.32893 of 2023

Alaguvel

...Petitioner

Vs

1.The Commissioner,
Food Safety and Drug Administration Department,
359, Anna Salai, Teynampet,
D.M.S. Campus, Chennai.

2.The Designated Officer,
Food Safety Department,
Ariyalur District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st respondent to consider the petitioner's representation dated 17.07.2023 and to reinstate the petitioner in service by revoking the suspension order passed by the 1st respondent in R.No.2091/2020/S11/FSSA dated 11.03.2020.

For Petitioner : Mr.V.Karnan

For Respondents : Mr.V.P.R.Elamparithi,
Additional Government Pleader



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ORDER

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

2. The prayer in the present Writ Petition is to consider the petitioner's representation dated 17.07.2023, seeking to interfere with the suspension order passed by the 1st respondent and to revoke the petitioner's suspension.

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



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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.



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6. In the light of the above findings, there shall be a direction to the 1st respondent herein to consider the petitioner's representation dated 17.07.2023, 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.

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

22.11.2023

Index:Yes/No

Neutral Citation:Yes/No

Speaking order/Non-speaking order

hvk



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To

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M.S.RAMESH,J.

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