



W.P.No.32431 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.32431 of 2023
and WMP Nos.32052 and 32053 of 2023

M.Sethuraj

...Petitioner

-Vs-

1. The Government of Tamil Nadu,
Represented by Secretary to Government,
Revenue and Disaster Management Services Department,
Secretariat, Chennai-600 009.
2. The Additional Chief Secretary-cum-Commissioner of
Revenue Administration,
Chepauk, Chennai-600 005.
3. The District Collector,
Erode District, Erode.
4. The Presiding Officer,
Tribunal for Disciplinary Proceedings,
Coimabtores.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to to call for the records relating to the orders in (1) Pro.Rc.No.6713/2021/A3 dated 09.03.2021 of the 3rd respondent, (2) Government letter No.36716/Ser.10(1)/2020-4, dted 21.09.2021 of



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the 1st respondent; (3) Proceeding of the 2nd respondent in Proceedings No.Ser,7(2)/7963/2016 dated 04.03.2023 and (4) Government letter No.36716/Ser.10(1)/2020-7, dated 27.07.2023 of the 1st respondent, to quash the same and to issue consequential directions to the respondents to forthwith reinstate the petitioner in service and to regularise the period of suspension from 09.03.2021 till the date of his reinstatement as “duty” period for all purposes and to include the name of the petitioner in the appropriate place in the approved panel for promotion as Deputy Collector for the year 2022-2023 issued by the 1st respondent in G.O.Ms.No.505 dated 03.10.2023 and to promote him as Deputy Collector from the date of such promotion of his immediate juniors therein.

For Petitioners : Mr.M.Ravi

For Respondents : Mr.V.Manoharan
AGP
For R.1 to R.3

ORDER

Heard Mr.M.Ravi, learned counsel for the petitioner and V.Manoharan, learned Additional Government Pleader for the respondents 1 to 3.

2. Through an order dated 09.03.2021, the petitioner was placed under suspension from his service on the ground that he was involved in a criminal case for demand and acceptance of illegal gratification which is pending investigation before the Directorate of Vigilance and Anti Corruption. The petitioner's further



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requisitions for revocation of suspension have been rejected on 21.09.2021, 04.03.2023 and 27.07.2023. Challenging the order of suspension and subsequent rejections, the present writ petition has been filed.

3. Learned counsel for the petitioner submits that the criminal case initiated by the Directorate of Vigilance and Anti Corruption has now been dropped and therefore, the order of suspension requires to be revoked in view of various decisions of the Hon'ble Supreme Court and this Court.

4. Per contra, learned Additional Government Pleader submitted that though the Director of Vigilance and Anti Corruption has dropped the charges levelled against the delinquent officer, the Government had accepted the recommendation of the Appropriate Investigating Authority of the Directorate of Vigilance and Anti Corruption Department recommending for Tribunal Action against the delinquent officer and transmitted the entire records to the Coimbatore Administrative Tribunal for Disciplinary Proceedings in G.O.No.131 (2D)Revenue and Disaster Management Department Service 10(1) Section dated 21.09.2021.

5. The Hon'ble Supreme Court in the case of *Ajay Kumar Choudhary v. Union of India*, reported in (2015) 7 SCC 291, in which, the dictum of the Hon'ble



Supreme Court was to the effect that the suspension order requires to be reviewed in every three months. Various decisions were later rendered by this Court following the decision of **Ajay Kumar Choudhary** (supra) which ultimately culminated to passing of G.O.Ms.No.81 Human Resources Management (N) Department dated 04.08.2022, laying guidelines for review of suspension orders. However, the Government Order had excluded the cases relating to the delinquent officers, being involved in criminal case, more particularly, the cases initiated by Directorate of Vigilance and Anti Corruption.

6. The only reason assigned by the respondents in refusing to revoke the suspension order is owing to the pendency of the criminal proceedings initiated by Directorate of Vigilance and Anti Corruption. Admittedly, the Directorate of Vigilance and Anti Corruption has now dropped the criminal case levelled against the petitioner and the same has been recorded by the Chief Judicial Magistrate and Special Judge, Erode on 08.11.2021.

7. In **Ajay Kumar Choudhary's case (supra)**, it was held that the currency of a suspension order should not extend beyond three months, if within its period, the memorandum of charges/charge sheet is not served on the delinquent officer/employee; if the memorandum of charges/ charge sheet is served, a



reasoned order must be passed for extension of the suspension period. It was also held therein that the Government would be at liberty to transfer the concerned employee to a non-sensitive post.

8. In the subsequent Government Order in G.O.Ms.No.81, dated 04.08.2022, the guidelines of *Ajay Kumar Choudary's case* were incorporated. However, the Government Order had restricted the applicability to the employees who are involved in criminal cases, more particularly, cases involving the Directorate of Vigilance and Anti Corruption.

9. Admittedly, the criminal case initiated by the Directorate of Vigilance and Anti Corruption against the petitioner herein has been dropped and when no criminal cases is pending against the petitioner, the guidelines in G.O.Ms.No.81 would be made applicable. When the respondents have not reviewed the order of suspension on expiry of three months and had not passed a reasoned order for extension of the suspension period and by taking into account that the petitioner is under prolonged suspension for more than 2½ years, this Court is inclined to revoke the suspension order.



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10. In the light of the above findings, the impugned suspension order dated 09.03.2021 is hereby quashed and consequently there shall be a direction to the respondents to forthwith reinstate the petitioner back into service either in the same post in which the petitioner was serving at the time of suspension or any other non-sensitive post as the respondents may determine. Such order shall be passed within a period of one week from the date of receipt of a copy of this order.

11. With the above direction, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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Index:Yes
Internet:Yes
sr

To

1. The Government of Tamil Nadu,
Represented by Secretary to Government,
Revenue and Disaster Management Services Department,
Secretariat, Chennai-600 009.
2. The Additional Chief Secretary-cum-Commissioner of
Revenue Administration,
Chepauk, Chennai-600 005.
3. The District Collector,



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Erode District, Erode.

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M.S.RAMESH,J.,

SR

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