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W.P.No.35884 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2023

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.35884 of 2023

Sivakumar

... Petitioner

Vs.

The Deputy Inspector of Police,
Vellore Range,
Vellore.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondent to consider the representation made by the petitioner dated 29.11.2023 to reinstate into service by reviewing the order of suspension.

For Petitioner : Mr.G. Muthukumaran
for M/s.Dhineshkumar Associates

For Respondent : Mrs.V. Yamuna Devi,
Special Government Pleader

ORDER

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



W.P.No.35884 of 2023

2. With regard to the prolonged suspension, the petitioner has given representation dated 29.11.2023 to reinstate him into service by reviewing the suspension order.

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 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.



W.P.No.35884 of 2023

WEB COPY

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.

5. On consideration of these instructions in G.O.(Ms) No.81, this Court is of the view that the respondent 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 respondent herein to consider the petitioner's representation dated 29.11.2023, seeking for reinstatement by revoking 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 (2) weeks from the date of receipt of a copy this order.



W.P.No.35884 of 2023

M.S.RAMESH,J.

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

22.12.2023

Speaking/Non-speaking order

Index: Yes/No

Internet: Yes/No

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Note: Issue Order Copy on 04.01.2024

To

The Deputy Inspector of Police,
Vellore Range,
Vellore.

W.P.No.35884 of 2023