



W.P(MD)No.6589 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.6589 of 2023

and

W.M.P.(MD)Nos.6253, 6254 & 6255 of 2023

A.Mani

... Petitioner

Vs.

1.The Commissioner /Director,
Adi Dravidar Welfare Department,
Chepauk,
Chennai-5.

2.The District Adi-Dravidar & Tribes Welfare Officer,
O/o. The District Adi-Dravidar & Tribes Welfare Officer,
Trichy District,
Trichy.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the first respondent vide his proceedings in Rc.No.C4/9454/2022, dated 31.03.2022 and consequential impugned order passed by the first respondent vide his proceedings in Na.Ka.No.E1/8339/2022, dated 26.08.2022 and quash the same as illegal and consequently, to direct the respondents to reinstate the petitioner in service within a period that may be stipulated by this Court.



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For Petitioner : Mr.S.Mohamed Suhali
for M/s.Ajmal Associates

For Respondents : Mr.T.Villavankothai
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2. The petitioner was appointed as driver in Adi Dravidar & Tribal Welfare Department. He was working in Trichy District. He was transferred on 22.03.2022 to Villupuram. The petitioner was also relieved. However, he did not join in the transferred place immediately. While so, on 30.03.2022, the vehicle driven by the petitioner was intercepted by the Vigilance and Anti Corruption officials. Search of the vehicle yielded a sum of Rs.40,00,000/- of unaccounted money. In the said vehicle, Saravanakumar, District Adi Dravidar & Tribal Welfare Officer, Trichy was there. In this regard, Crime No.3 of 2022 was registered on the file of V & AC Officials, Villupuram Detachment. According to prosecution, ill-gotten money was collected from certain appointees and was meant for A1-Kalaimohan, Assistant Executive



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Engineer in Adi Dravidar Welfare Department. The petitioner was arrested and also remanded. Therefore, the petitioner was suspended from service vide order dated 31.03.2022. This order is put to challenge in this writ petition.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. He pointed out that as per the guidelines, enquiry/investigation in vigilance case must be concluded within one year and since the said time line has been breached in this case, reinstatement must be ordered. He also would point out that when the first accused filed writ petition before the Principal Seat, it was ordered that the first respondent herein will re-visit the issue. More than anything else, the petitioner was only a driver and that knowledge cannot be imputed to him as regards what was being transported in the vehicle. He pressed for allowing the writ petition.

4. The respondents have filed counter affidavit and the learned Additional Government Pleader took me through its contents. He pressed for dismissal of the writ petition.



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5. I carefully considered the rival contentions and went through the materials on record. The petitioner has been implicated as A3 in the vigilance case. Since he was arrested and remanded, he was rightly suspended. The question that calls for consideration is whether suspension must be revoked. The allegations against the petitioner are fairly serious. In normal circumstances, this Court would presume that the driver of the vehicle cannot be imputed with knowledge of what is being transported in a suitcase. But in this case, the petitioner had already been transferred from Trichy to Villupuram. He had already been relieved. Therefore, there is no proper explanation as to why the petitioner should drive the private vehicle of the superior on 30.03.2022. The allegations against the petitioner are fairly grave. Therefore, this Court will not be justified in directing the respondents to reinstate the petitioner. This is a call which the first respondent must take. It is always open to the petitioner to approach the first respondent again and seek reinstatement and it is left to the discretion of the first respondent to consider reinstating the petitioner. As per the fundamental rules, if suspension is prolonged beyond six months, subsistence allowance must



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be revised and enhanced to 75% provided that the delinquent is not responsible for the delay. In this case, the petitioner is not responsible for the delay either in conclusion of the enquiry or in the investigation. Therefore, even while declining to direct the respondents to revoke the suspension order, I direct the respondents to enhance the petitioner's subsistence allowance to 75% of the salary. This enhancement shall be made with effect from 01.07.2023.

6. With this direction, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

08.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To

1.The Commissioner /Director,
Adi Dravidar Welfare Department,
Chepauk,
Chennai-5.

2.The District Adi-Dravidar & Tribes Welfare Officer,
O/o. The District Adi-Dravidar & Tribes Welfare Officer,
Trichy District,
Trichy.

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G.R.SWAMINATHAN, J.

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