



W.P(MD)No.8540 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.04.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.8540 of 2023

G.Venkadesa Perumal

... Petitioner

Vs.

1.The District Collector,
Tuticorin District,
Tuticorin.

2.The Revenue Divisional Officer,
Kovilpatti,
Tuticorin District.

... 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 pertaining to the impugned order passed by the 2nd respondent in his proceedings Roc.No.A1/9532/2022 dated Nil.08.2022 signed on 23.08.2022, and quash the same and consequently direct the respondents to reinstate the petitioner into service with backwages, continuity of service and all other attendant benefits and other monetary benefits.



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For Petitioner : Mr.S.Hameed Ismail

For Respondents : Mr.K.Balasubramani,
Spl. Government Pleader.

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ORDER

Heard the learned counsel on either side.

2.The petitioner is holding the rank of Village Administrative Officer. He was implicated in a vigilance case in Crime No.6 of 2022 registered on the file of the Vigilance and Anti-Corruption Detachment, Thoothukudi. The allegation is that the petitioner the petitioner demanded and accepted a sum of Rs.14,000/- on 16.08.2022 from one R.Rahavan. The petitioner was arrested and released on bail only on 14.09.2022. Since the petitioner was in judicial custody beyond 48 hours, he was deemed to have been suspended from the date of arrest. The petitioner questions the impugned suspension order.

3.The learned counsel for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition.



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He placed reliance on the order dated 28.01.2020 made in W.P.(MD)No.26909 of 2019. A learned Judge of this Court set aside the suspension order and directed reinstatement of the petitioner by placing reliance on the decision reported in **(2015) 2 SCC 291 (Ajay Kumar Choudhary vs. Union of India through its Secretary and another)**. The learned counsel wants this Court to adopt the very same approach and grant relief to the petitioner as prayed for.

4.I am not persuaded by the submission of the learned counsel for the petitioner. As rightly pointed out by the learned Special Government Pleader, when a government employee is caught in a trap case and arrested and detained in judicial custody beyond 48 hours, he is deemed to be under suspension. The impugned suspension order dated 23.08.2022 merely reflects the statutory position. Therefore, by no stretch of imagination can the order of suspension be set aside.

5.It is true that **Ajay Kumar Choudhary's** case contemplates periodical review. But then, the said approach cannot be adopted in vigilance case. It is a well settled proposition. Of course, it is open to



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the authority to consider the over all circumstances and grant relief to the petitioner. But then, it would be for the employer to take a call in the matter and not for this Court to direct reinstatement. The petitioner had submitted representation on 05.01.2023. The Revenue Divisional Officer, Kovilpatti, Thoothukudi District is the authority competent to consider the representation of the petitioner. While declining to interfere with the impugned suspension order, I direct the second respondent to consider the petitioner's representation and take a call. An employee under suspension is entitled to receive subsistence allowance and the respondents are directed to ensure that the subsistence allowance is paid to the writ petitioner without any delay.

6.This writ petition is disposed of accordingly. No costs.

13.04.2023

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

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G.R.SWAMINATHAN, J.

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