



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.02.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.7505 of 2021
and W.M.P.No.8025 of 2021

V.Kumaresan,
S/o.Vengidusamy (late),
Deputy Tahsildar,
Taluk Office,
Kodumudy,
Erode District - 638 315.

...

Petitioner

versus

The District Collector,
Erode District.

...

Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the respondent herein Rc.No.6713/2021/A3 dated 09.03.2021 and quash the same and to direct the respondent herein to forthwith reinstate the petitioner herein with all consequential benefits and to desist from re-interfering any proceedings on the very same set of allegations for which already disciplinary proceedings was initiated in charge memo Na.ka. 10917/2015/A3 dated 23.01.2016 by the respondent.

For Petitioner : Mr.M.Ravi

For Respondent : Mr.R.Kumaravel
Additional Government Pleader

ORDER



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Heard Mr.M.Ravi, learned counsel for the petitioner and Mr.R.Kumaravel, learned Additional Government Pleader for the respondent and perused the materials available on record.

2. The petitioner was placed under suspension in view of some grave allegations of demanding and accepting the bribe. Subsequently, a criminal case has been registered and after investigation that came to be dropped in Cr.No.02/2016/AC/ER dated 08.11.2021. Even prior to that, charges have been issued to the petitioner.

3. Mr.M.Ravi, learned counsel for the petitioner submitted that the Tahsildar who was also placed under suspension along with the petitioner on the same set of allegations and the disciplinary proceedings were initiated against him. Challenging the same, the Tahsildar has filed a Writ Petition in W.P.No.32431 of 2023 and this Court has passed an order by quashing the order of suspension dated 09.03.2021 and directed the respondents to reinstate the Tahsildar into service and that has already been implemented on 15.12.2023. The Tahsildar had joined duty subsequently.



The petitioner is also standing on the same footing but however his suspension has not been revoked so far.

4. Admittedly, a criminal case has been registered against the petitioner and that has been dropped subsequently. It is worthwhile to extract the order passed by this Court in W.P.No.32431 of 2023 which was filed by the delinquent employee, in which, it has been observed as under:-

*“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



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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



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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.

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.”

5. Once the criminal action against the petitioner was dropped, the respondent ought to have reviewed the order of suspension and pass orders accordingly. Since the disciplinary proceedings have already been initiated and the same is pending, the delinquent employee, who was involved in the same proceedings had been reinstated into service, I feel the same can be made applicable to this petitioner also.

6. In view of the above stated reasons, the order of suspension dated 09.03.2021 issued against the petitioner stands quashed and the respondent is directed to reinstate the petitioner into service and pass



suitable orders within a period of three (3) weeks from the date of receipt of a copy of this order. This order will not have any impact on the pending disciplinary proceedings and the petitioner is at liberty to participate in the disciplinary proceedings.

With the above direction, this Writ Petition is **allowed**. No costs.

Consequently, connected Miscellaneous Petition is closed.

29.02.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

sri

To

The District Collector,
Erode District.



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R.N.MANJULA, J.

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