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W.P.No.7624 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.7624 of 2024 and W.M.P.Nos.8540 & 8541 of 2024

R.Krishnamurthy

...Petitioner

-Vs-

1. Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600 028.

2. The Deputy Inspector General of Registration,
Chennai Zone,
Chennai-600 035.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the second respondent in his proceedings Proc.No.2924/A1/2021-1 dated 02.08.2021 and quash the same and consequently direct the respondent to reinstate the petitioner into service, together with all consequential service and monetary benefits, within a time frame as deem fit and proper by this Hon'ble Court.

For petitioner

: Mr.G.Bala and Daisy

For respondents

: Mr.B.Vijay,
Additional Government Pleader



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ORDER

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This writ petition has been filed challenging the order passed by the 2nd respondent dated 02.08.2021.

2. The petitioner had joined as Sub-Registrar (On Deputation) on 27.07.2021. While being so, a criminal complaint was registered against the petitioner and registered FIR in Crime No.13 of 2021 alleging that the petitioner had demanded Rs.10,000/- as illegal gratification for releasing a document. In pursuant to the said FIR, petitioner was arrested for demand and acceptance of tainted money and remanded into judicial custody. Therefore, the petitioner was deemed to be suspended by an order dated 02.08.2021. Thereafter, the Investigation Officer completed investigation and filed final report and the same has been taken cognizance in Spl.C.C.No.12 of 2022 and it is pending on the file of Chief Judicial Magistrate, Tiruvallur. The petitioner was also served with charge memo and it is pending for disciplinary proceedings. The petitioner has been kept under suspension from 10.02.2021. In a similar case, this Hon'ble Court has quashed the prolonged suspension. In the Trial Court, so far no witnesses



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have been examined and it is pending and the departmental proceedings are also pending without appointing any enquiry officer so far. There is no bar for the disciplinary authority to proceed with the departmental proceedings even during the pendency of the criminal case. As per the Discipline and Appeal Rules, the pendency of the criminal case is not a bar for continuation of departmental proceedings. However, the order of suspension is pending for the past three years. The petitioner is receiving subsistence allowance without even doing any work. It is relevant to extract the G.O.Ms.No.81, Human Resources Management (N) Department dated 04.08.2022 hereunder:

"(ix) The time limits mentioned above will not be applicable to cases of Government Servants against whom criminal proceedings have been initiated. However, while sanctioning prosecution in such a criminal case, an examination similar to the one mentioned in item (viii) above shall be made by the competent authority.

(xi) In cases where the charges in the criminal case involves complicated questions of law and fact and the disciplinary authority is not in a position to finalize the departmental disciplinary proceedings and if the criminal case is based on the vigilance report and is pending before the court of law for which no reasons are



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explained explicitly, the authority competent may take a decision by taking up review of suspension and post the Government Servant in a non-sensitive post in consultation with the appropriate investigating authority/Vigilance Commission on case to case basis in view of the reason that prolonged suspension and paying subsistence allowance for a long period without extracting work is not at all acceptable. Such revocation of suspension can be made based on the facts of each and after noticing the reason for the delay in serving the memorandum of charges/charge sheet. The decision of the Hon'ble High Court of Madras in P.Kannan case, give in Para 5 above, shall be taken into account."

3. In view of the above Government Order in G.O.Ms.No.81, Human Resources Management (N) Department dated 04.08.2022, it is clear that it is for the disciplinary authority to take a decision by taking up review of suspension and post the Government Servant in a non-sensitive post in consultation with the appropriate Investigating Authority.

4. In view of the above, the respondents are directed to revisit the



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order of suspension date 02.08.2021 passed by the second respondent and to reinstate the petitioner into service and post him in a non-sensitive post in the light of the G.O.Ms.No.81, Human Resources Management (N) Department dated 04.08.2022 within a period of eight weeks from the date of receipt of copy of this order.

5. With the above direction, this writ petition is disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

22.03.2024

Index : Yes/No
Speaking/Non Speaking Order
Neutral citation : Yes/No
gvn

G.K.ILANTHIRAIYAN,J.
gvn



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