



WEB COPY



W.P.No.8174 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.8174 of 2024

S.Chandirahassan

... Petitioner

-Vs-

The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Kallakurichi District.

... Respondent

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondent to consider the representation dated 09.02.2024 and review the order of suspension passed in Roc.No.A1/2138/2017 dated 25.03.2017 to reinstate the petitioner into the service as Village Administrative Officer with all service and monetary benefits in the light of the decision of the Honourable Supreme Court in **Ajay Kumar Choudhary vs. Union of India 2015 (7) SCC 291** within a time limit that may be specified by this Honourable Court and also based on the G.O.Ms.No.81, Human Resources Management (M) Department dated 04.08.2022.

For Petitioner	: Mr.M.Elumalai
For Respondent	: Mr.R.Kumaravel
	Additional Government Pleader

ORDER



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WEB GOM This writ petition has been filed for direction directing the respondent to consider the representation dated 09.02.2024 and review the order of suspension passed in Roc.No.A1/2138/2017 dated 25.03.2017 to reinstate the petitioner into the service as Village Administrative Officer with all service and monetary benefits in the light of the decision of the Honourable Supreme Court in **Ajay Kumar Choudhary vs. Union of India 2015 (7) SCC 291** within a time limit that may be specified by this Honourable Court and also based on the G.O.Ms.No.81, Human Resources Management (M) Department dated 04.08.2022.

2. Heard the learned counsel on either side and perused the materials available on record.

3. The petitioner was appointed as Village Administrative Officer on 01.10.2012 and he had joined as Village Administrative Officer, Palayanoor Village, Sankarapuram Taluk, Villupuram Taluk, now, Kallakurichi District. While being so, on the complaint lodged by one Pachaiyapillai alleging that the petitioner demanded a sum of Rs.3000/- as illegal gratification for issuance of legal heirship certificate to his grand father, registered FIR in Crime No.04/AC/2017VPM, on the file of the Vigilance and Anti Corruption Department, Villupuram for the offences punishable under Sections 7 and 13(2)



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read with Section 13(1) (d) of the Prevention of Corruption Act, 1988. Pursuant

to the registration of FIR, the petitioner was arrested and remanded to judicial custody on 24.03.2017. Therefore, the petitioner was deemed to be suspended by the proceeding in Roc.No.A1/2138/2017 dated 25.03.2017 under Rule 17(e)(i)(ii) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules. The petitioner had already challenged the order of suspension before this Court in W.P.No.16890 of 2018. This Court, by an order dated 25.02.2019 directed the respondent to pass orders on the representation submitted by the petitioner and pass orders within a period of twelve weeks. However, the said representation was rejected by an order dated 29.06.2019. Even after a period of seven years from the date of his order of suspension, the petitioner was not served with any charge memo so far. After completion of investigation, the investigating agency filed a final report and the same has been taken cognizance in S.C.No.2 of 2019, on the file of the Special Court, Villupuram. However, so far, no trial has been commenced. For a period of seven years, the petitioner was paid subsistence allowance. Now, he is receiving 75% of last drawn pay as subsistence allowance that too without extracting any work.

4. It is relevant to extract Clause 11 (xi) of G.O.Ms.No.81, Human Resources Management (M) Department dated 04.08.2022 as follows:-

“ 11 (xi) In cases where the charge in the criminal case



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involves complicated questions of law and fact and the disciplinary authority is not in a position to finalize the departmental disciplinary proceeding and if the criminal case is based on the vigilance report and is pending before the court of law for which no reasons are explained explicitly, the authority competent may take a decision by taking up review of suspension and post the Government Servant in a non-sensitive place 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 case 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, given in para above, shall be taken into account.”

5. Thus, it is clear that the order of suspension cannot be continued that too without extracting any work on payment of subsistence allowance to the tune of 75%.

6. In view of the guidelines in G.O.Ms.No.81, Human Resources Management (M) Department dated 04.08.2022, the order of suspension cannot be sustained. Therefore, the respondent is directed to pass order to reinstate the petitioner into service and post him in any non-sensitive post, within a period of four weeks from the date of receipt of a copy of this order.

7. With the above directions, this writ petition is disposed of. There shall be no order as to costs.

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Internet: Yes

Index : Yes/No

Neutral Citation : Yes/No

Speaking/Non Speaking order
mn

G.K.ILANTHIRAIYAN. J.

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To

The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Kallakurichi District.

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