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W.P.No.8220 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.8220 of 2024

R.Chandra

... Petitioner

-Vs-

1. The Secretary to Government,
Rural Development and Panchayat Department,
Secretariat,
Chennai – 600 009.
2. The District Collector,
District Collectorate Office,
Vellore District – 632009.
3. The District Collector,
District Collectorate Office,
Ranipettai District.
4. The Block Development Officer (BP),
Sholinghur Panchayat Union,
Ranipettai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order in Rc.No.2312/2017/PA6 dated 07.07.2017 of the second respondent and quash the same and direct the second respondent to reinstate the petitioner as a Zonal Deputy Block Development Officer, Zonal-IV, Sholinghur.



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For Petitioner : Mr.Naveen Kumar Murthy
for Mr.P.Pandiyaraj
For R1 to R3 : Mr.K.Tamilvendan
Government Advocate
For R4 : Mr.K.H.Ravikumar
Government Advocate

ORDER

This Writ Petition has been filed challenging the order of suspension dated 07.07.2017 passed by the second respondent.

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

3. The petitioner was selected and appointed as Assistant Group-II in non-interview post. Thereafter, the petitioner was transferred to various places and finally he was promoted as Zonal Deputy Block Development Officer, Sholinghur, on 21.01.2017. While being so, the petitioner was directed to deposit a sum of Rs.1,41,212/-. Without prejudice to his right of challenge, he had deposited the said amount. Thereafter, the petitioner was suspended from service on 07.07.2017 alleging that the petitioner indulged in financial and procedural irregularity in Vellore Panchayat Union, while he was in service during 2013-2016 as Assistant, at Block Development Office, Vellore. Pursuant



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to the said suspension order, a criminal complaint was lodged and the same was registered in Crime No.16 of 2019 for the offences punishable under Sections 409, 420, 468, 471 read with 120B IPC. Thereafter, the petitioner was served with a charge memo dated 26.12.2017. On receipt of the said charge memo, the petitioner submitted an explanation and without being satisfied with the explanation submitted by the petitioner, an enquiry was ordered. The Enquiry Officer found the charges proved. Pursuant to the enquiry report, by an order dated 26.06.2019, ordered for recovery of a sum of Rs.4,66,499/- and Rs.17,046/- from the petitioner. However, so far, no final order has been passed on the enquiry report submitted by the Enquiry Officer. That apart, no charge sheet has been laid in the criminal case registered as against the petitioner in Crime No.16 of 2019. The petitioner is receiving subsistence allowance without doing any work. The Government passed an order in G.O.Ms.No.81, Human Resources Management (M) Department dated 04.08.2022 and issued guidelines in respect of prolonged suspension.

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 involves complicated questions of law and fact and the



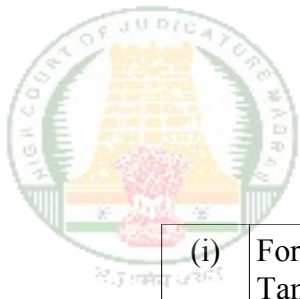
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disciplinary authority is not in a position to finalize the departmental disciplinary proceeding and if the criminal case is based on the vigilance report and is pending before the court of law for which no reasons are explained explicitly, the authority 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. The Government also fixed a time limit for processing the disciplinary proceedings so as to ensure that there is no unwarranted delay in finalizing them. The relevant portion is as follows:-

(i)	To complete the investigation by Directorate of Vigilance and Anti-Corruption and to send a report to Government through Vigilance Commission	One year
(ii)	To complete the enquiry by the Tribunal and to send its findings to the Department of Secretariat	One year
(iii)	To pass final orders by the Government/Heads of Department on receipt of the report of the Tribunal	Four months

Time limits for crossing every stage of the departmental disciplinary proceedings:-



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(i)	For calling for explanation under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules or framing charges under Rule 17(b) of the said rules after the lapse comes to notice. For calling for explanation under Rule 3(a) of the Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules, 1955 or framing of charges under Rule 3(b) of the said rules after the lapse comes to the notice. (The choice of the rule under which the disciplinary proceedings should be initiated is very important and the Disciplinary Authorities are expected to take a decision by considering the nature of lapses committed)	15 days
(ii)	For the delinquent officer to peruse the records and to submit his written explanation	30 days
(iii)	For appointment of enquiry officer wherever necessary after the receipt of the explanation	7 days
(iv)	For the enquiry officer to complete enquiry and submit the enquiry report	30 days
(v)	For the Disciplinary Authority to take a decision, after the receipt of the inquiry officer's report	10 days
(vi)	For obtaining the further representation of the delinquent officer on the report of the inquiry officer	15 days
(vii)	For obtaining the views of Tamil Nadu Public Service Commission, whenever it is consulted	30 days
(viii)	For issue of final orders on the departmental disciplinary proceedings:- (a) By Disciplinary Authority other than Government (b) By Department of Secretariat which have to consult other Departments and obtain orders in circulation	7 days 30 days

6. Though the enquiry officer completed the enquiry and filed a final report, dated 21.08.2018 and issued show cause notice to the petitioner, on 07.09.2018, on receipt of the enquiry report, so far the disciplinary authority



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failed to pass any final order. It is pending for the past six years without passing any final orders. It is complete violation of the guidelines issued by the Government in G.O.Ms.No.81 Human Resources Management (M) Department dated 04.08.2022. Further, the petitioner is receiving subsistence allowance without doing any work and it caused heavy loss to the ex-chequer.

7. In view of the above, the impugned order cannot be sustained and is liable to be quashed. Accordingly, the order passed by the second respondent in Rc.No.2312/2017/PA6 dated 07.07.2017, is hereby quashed. The second respondent is directed to pass order to reinstate the petitioner into service and place him in a non-sensitive post, within a period of four weeks from the date of receipt of a copy of this order.

8. Accordingly, this writ petition is allowed. There shall be no order as to costs.

27.03.2024

Internet: Yes

Index : Yes/No

Neutral Citation : Yes/No

Speaking/Non Speaking order

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G.K.ILANTHIRAIYAN. J,

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