WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2024

CORAM

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.14154 of 2024
and
W.M.P.Nos.15337 & 15339 of 2024

N. Aslam Basha ... Petitioner

Vs.

1. The District Collector,
Vellore District, Vellore.

2. The District Revenue Officer,
Vellore, Vellore District.

3. The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Chennai

4. The Secretary to Government
Department of Public Affairs,
Secretariat, Fort St. George,
Chennai - 600 009. ...
Respondents

R3 Suo motu impleaded as per order dated 06.06.2024
in W.P.No.14154 of 2024 by DBCJ

R4 Suo motu impleaded by this Court vide order dated 26.06.2024

https://www.mhc.tn.gov.in/judis

WEB COPY

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Rc.A2.20293/2018 dated 29.08.2018 and quash the same and consequently direct the respondents to reinstate the petitioner into service along with backwages, attendant benefits and other monetary benefits to the petitioner.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.S.Balamurugan
Government Advocate for R1 & R2

ORDER

This writ petition is filed for issuance of a Certiorarified Mandamus calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Rc.A2.20293/2018 dated 29.08.2018 and quash the same and consequently direct the respondents to reinstate the petitioner into service along with backwages, attendant benefits and other monetary benefits.

2. There was a complaint before the 3rd respondent that the petitioner

https://www.mhc.tn.gov.in/judis

WEB COPY

being a Firka Revenue Inspector demanded a sum of Rs.25,000/- as bribe from one Dinesh Kumar. The said Dinesh Kumar lodged a complaint before the 3rd respondent. They laid a trap and the petitioner was caught red-handed receiving the bribe. The petitioner was arrested and a case in Crime No.7 of 2008 was registered against the petitioner. The petitioner was therefore suspended by an order dated 29.08.2018. Thereafter, neither the criminal case progressed nor there was any departmental enquiry. Therefore, the petitioner challenged the suspension order by way of W.P.No.11649 of 2020 and by judgment dated 09.08.2021, this Court passed an order and it is relevant to extract the relevant paragraph which reads under:-

> ***"4. Considering the fact that the petitioner was caught red-handed with the money by the officers of the Vellore Vigilance and Anti Corruption Wing while accepting bribe from one Thiru.R.Dinesh Kumar, the prayer of the petitioner to quash the suspension order cannot be entertained. At the same time, it is noticed that neither the Disciplinary Proceedings nor the Criminal Proceedings has progressed since 2018 and almost three years have lapsed. Considering the same, I direct the respondents to issue a charge memo to the petitioner within a period of 45 days from the date of receipt of a copy of this order. In case no***

https://www.mhc.tn.gov.in/judis

WEB COPY

charge memo is issued by the respondents, the respondents shall ask the petitioner to revert him to duty without any order".

3. But despite the order of this Court, the respondents did not care to do anything. As far as the criminal case is concerned, when this Court impleaded the Investigating Officer as the 3rd respondent, it is reported that as early as 16.12.2021, PW1 was examined in Spl.CC.No.8 of 2020 which is pending on the file of the Chief Judicial Magistrate/Special Judge, Vellore. Thereafter, the case has not seen further progress for three long years and the case remains in the same stage.

4. As far as the departmental proceedings are concerned, despite this Court giving a specific direction that a charge memo should be issued within a period of 45 days, the concerned authority seems to have taken a view favouring the petitioner and no charge memorandum has been issued to date. It can be seen that when a case of this nature is being detected, there is slackness in prosecuting the criminal case. Much worse in spite of the direction of this Court to issue a charge memorandum within a period of 45 days, the concerned authority has not chosen to issue one. That shows that

https://www.mhc.tn.gov.in/judis

WEB COPY

the concerned authority is not interested in keeping the petitioner under suspension and indirectly the authority wanted to reinstate him.

5. It is also represented by the Investigating Officer that there is no Special Public Prosecutor in the concerned Court. The Secretary to Government, Department of Public Affairs, Secretariat, Fort St. George, Chennai - 600 009 is suo motu impleaded as 4th respondent by this Court in this writ petition.

6. It is also brought to the notice of this Court that in several districts before the Chief Judicial Magistrate/Special Court the post of the Special Public Prosecutor is vacant. When the trap is laid and the Government servants who are placed in suspension knock on the doors of this Court to be reinstated, the other hand, the criminal cases are easily protracted for about 10 years. The lack of Special Public Prosecutors is also one of the reasons. By protracting the trial, it is the government which is losing heavily in terms of revenue as it is shelling out subsistence allowance to these employees. In case the employee is found not guilty, he is again to be reinstated and back wages are paid. Therefore, in any view of the matter, the public interest requires the

https://www.mhc.tn.gov.in/judis

WEB COPY

immediate appointment of the Special Public Prosecutors. The vacancies throughout the State shall be filled up as expeditiously as possible.

7. In the present case, when the earlier direction of this Court is clear that if charge memorandum is not issued by the respondents within 45 days, the respondents are directed to reinstate the petitioner into duty, the same as having become final, the respondents are duty bound to reinstate the petitioner. In view thereof, this writ petition is allowed on the following terms:-

(i) The respondents shall revoke the suspension of the petitioner and reinstate him into duty within four weeks from the date of receipt of a copy of this order. It would be open for the respondents to accommodate the petitioner in any non-sensitive place/vacancy;

(ii) The 1st respondent is directed to consider the issue of lapse of the concerned authority in not issuing the charge memorandum within 45 days as directed by this Court W.P.No.11649 of 2020, appropriate Disciplinary Action shall be taken if there is a dereliction of duty of anyone concerned;

(iii) The fourth respondent is directed to fill up the vacancies in the post of Special Public Prosecutors within two months from the date of receipt of a

https://www.mhc.tn.gov.in/judis

WEB COPY

copy of the order and in the meantime, the in-charge Special Public Prosecutors shall ensure that progress of the trial is not hampered;

(iv) The learned Judicial Magistrate/Special Judge, Vellore is requested to expedite the trial in Spl.C.C.No.8 of 2020 and complete the trial as expeditiously as possible in any event within three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are also closed.

26.06.2024

Neutral Citation: Yes/No
dpq

Note:- Registry is directed to communicate this order to The Secretary to Government, Department of Public Affairs, Secretariat, Fort St. George, Chennai - 600 009 and also to the Director of Prosecution, Chennai for expeditious action & the Learned Chief Judicial Magistrate for completion of the Trial.

To
1. The District Collector,
   Vellore District, Vellore.

2. The District Revenue Officer,
   Vellore, Vellore District.

https://www.mhc.tn.gov.in/judis

WEB COPY

3. The Deputy Superintendent of Police,
   Vigilance and Anti Corruption,
   Chennai

4. The Secretary to Government
   Department of Public Affairs,
   Secretariat, Fort St. George,
   Chennai - 600 009.

CC to.
The Chief Judicial Magistrate, Velllore.

D.BHARATHA CHAKRAVARTHY, J.

dpq

W.P.No.14154 of 2024
and
W.M.P.Nos.15337 & 15339 of 2024

https://www.mhc.tn.gov.in/judis

WEB COPY

26.06.2024

https://www.mhc.tn.gov.in/judis