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W.P.No.18955 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2024

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.18955 of 2024

and

W.M.P. No. 20820 of 2024

A.Chinnasamy

... Petitioner

Vs

1. The Commissioner of Rural Development and Panchayat Raj,
Saidapet,
Chennai – 600 015.
2. The District Collector,
Salem Collectorate,
Salem – 636 001.
3. The Addl. Collector/Project Director,
District Rural Development Agency,
O/o. The District Collector, Salem.
4. The Personal Assistant (Development),
O/o. Salem Collector,
Salem – 636 001.
5. The Block Development Officer,
(Village Panchayat),
Thalaivasal Panchayat Union,
Thalaivasal – 636 112.

... Respondents



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Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order in Na. Ka. No. 27364/2022/Project-3 dated 20.09.2022 passed by the fourth respondent and to quash the same and consequently direct the respondents to reinstate the petitioner as Panchayat Secretary with all service and monetary benefits.

For Petitioner : Mr. C.Prabakaran

For Respondents : Mr. S.Arumugam,
Government Advocate

O R D E R

With consent of both sides, this Writ Petition has been taken up for disposal at the admission stage itself.

2. The Writ Petition has been filed challenging the order of suspension dated 20.09.2022, passed by the fourth respondent, thereby the petitioner's service was suspended.

3. The petitioner was working as Panchayat Secretary at Deviyakurichi Panchayat when he was suspended from service. In pursuant



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to the registration of the First Information Report in Crime No.12/AC/2022 on the file of the Inspector of Police, Vigilance and Anti-Corruption, Salem, alleging that, on the complaint lodged by the de-facto complainant, a trap was set up and the petitioner was caught red-handed while accepting illegal gratification.

4. The learned counsel for the petitioner submitted that, for the past 20 months, there has been no progress in the criminal case, and the petitioner has not been served with any charge memo.

5. It is seen from the records, it reveals that the investigation is still pending in Crime No. 12/AC/2022. The learned counsel for the petitioner relied upon G.O. Ms. No. 81, Human Resources Management (N) Department dated 04.08.2022, to revoke the order of suspension and to place him in a non-sensitive post.

6. Admittedly, the petitioner was working as Panchayat Secretary and was caught red-handed while receiving a bribe, as a trap was set up by



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the Vigilance and Anti-Corruption. Therefore, the petitioner committed a very serious offence. The said Government Order in G.O. Ms. No. 81, Human Resources Management (N) Department dated 04.08.2022 and the relevant clauses read as follows:-

“(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.

(x) If, on examination of the case under items (vi), (viii) or (ix) above, continued suspension is considered not necessary, the suspension may be revoked in exercise of the powers conferred under Rule 17(e)(6) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules or under Rule 3(e)(5) of the Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules, 1955, as the case may be.

(xi) in cases where the charge 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 proceeding and if the criminal



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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 5 above, shall be taken into account.”

7. In view of the above, the case of the petitioner cannot be considered since the petitioner is involved in a grave offence. Therefore, this Court finds no infirmity or illegality in the order passed by the fourth respondent and the Writ Petition is devoid of merits and is liable to be dismissed.



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8. In the result, this Writ Petition is dismissed. However, it is needless to say that the petitioner is entitled to subsistence allowance. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index: Yes/No
Neutral Citation/Yes/No
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G.K.ILANTHIRAIYAN, J.

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