



WEB COPY



W.P.No.19282 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2024

CORAM

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

W.P.No.19282 of 2024
and W.M.P.No.21145 of 2024

Loganathan

... Petitioner

-Vs-

The Commissioner,
Food Safety & Administration Department,
359, Anna Salai, DMS Campus,
Teynampet, Chennai 600 006.

... Respondent

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, calling for the records of the respondent in connection with the impugned order passed by him in R.No.5932/2020/S1/FSD dated 24.09.2020 and R.No.5932/2020/S1/FSD dated 10.05.2021 and quash the same and direct the respondents to reinstate the petitioner into service and grant him all consequential service and monetary benefits.

For Petitioner : Mr.K.Venkataramani, Senior Counsel
for Mr.M.Muthappan

For Respondent : Mr.E.Vijay Anand
Additional Government Pleader



W.P.No.19282 of 2024

WEB COPY

ORDER

This Writ Petition has been filed challenging the order passed by the respondent dated 24.09.2020, thereby suspended the petitioner from service and the order passed by the respondent dated 10.05.2021, thereby rejected the request made by the petitioner for revocation of suspension.

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

3. The petitioner was serving as Food Safety Officer, Ambattur Municipality. He was also in charge of Thiruverkadu Municipality. While being so, the petitioner was arrested and remanded to judicial custody, pursuant to the registration of FIR in Crime No.8 of 2020, on the file of Inspector of Police, Special Investigation Cell, V and AC Department, on the complaint lodged by one Mohan, alleging that the said Mohan and his sister are running a departmental store in Anna Salai, Thiruverkadu, Chennai. His sister's husband is running a business in the name of Senthil Murugan Departmental Store and also selling vegetables. While being so, the petitioner, under the guise of Inspector,



W.P.No.19282 of 2024

WEB COPY

demanded bribe to be given at Rs.10,000/- for the purpose of issuance of license. On the complaint, a trap was set up and the petitioner got red-handed. Now, the investigation is pending. Immediately after arrest of the petitioner, the petitioner was deemed to be suspended from service, by an order dated 24.09.2020. While being so, the petitioner submitted a representation for revocation of his order of suspension and the same was also rejected by an order dated 10.05.2021.

4. Even till now, no charge sheet has been laid in the FIR registered as against the petitioner in Crime No.8 of 2020, on the file of Inspector of Police, Special Investigation Cell, V and AC Department. In view of the pendency of investigation, the petitioner was also not served any charge memo so far to initiate disciplinary proceedings. In fact, subsequently, the petitioner also submitted a representation for revocation of his suspension and the same was rejected by an order dated 08.07.2024.

5. The learned Senior Counsel appearing for the petitioner produced the said order dated 08.07.2024. A perusal of the said order



W.P.No.19282 of 2024

WEB COPY

revealed that the request made by the petitioner was rejected only on the ground that the charge sheet is not yet filed by the investigation agency and the investigation is still in progress. Admittedly, the petitioner is facing criminal case for the past four years and no charge sheet has been laid so far.

6. The Government passed an order in G.O.Ms.No.81, Human Resources Management (N) Department dated 04.08.2022, in which clause (ix) states as follows:-

“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 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.”



W.P.No.19282 of 2024

WEB COPY

7. Thus, it is clear that 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 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.

8. Admittedly, the investigation is still pending without filing final report in Crime No.8 of 2020 on the file of Inspector of Police, Special Investigation Cell, V and AC Department, Chennai. In view of the pendency of the investigation, the respondent is also not in a position to complete the disciplinary proceedings.

9. Therefore, the respondent is directed to review the order of suspension dated 24.09.2020 and with consultation of investigation agency, pass orders to revoke the order of suspension and place the petitioner in a non-sensitive post, within a period of four weeks from the date of receipt of a copy of this order.



W.P.No.19282 of 2024

WEB COPY

10. With the above directions, this writ petition is disposed of.

Consequently, connected Miscellaneous petition is closed. There shall be no order as to costs.

18.07.2024

Internet : Yes

Index : Yes/No

Speaking/Non Speaking order

Neutral Citation:Yes/No

mn



WEB COPY



W.P.No.19282 of 2024

To

The Commissioner,
Food Safety & Administration Department,
359, Anna Salai, DMS Campus,
Teynampet, Chennai 600 006.



WEB COPY



W.P.No.19282 of 2024

G.K.ILANTHIRAIYAN, J.

mn

W.P.No.19282 of 2024

18.07.2024