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W.P.No.21077 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2024

CORAM:

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

W.P.No.21077 of 2024

S.Prabu

.... 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 of the petitioner dated 08.05.2024 to review the order of suspension passed in proceedings in Roc. No.A1/3202/ 2018 dated 18.06.2018 and to reinstate the petitioner into 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 and in the light of the order dated 27.03.2024 passed in WP No.8174 of 2024.

For Petitioner : Mr.M.Elumalai

For Respondent : Mr.S.Balamurugan
Government Advocate

ORDER



W.P.No.21077 of 2024

This Writ Petition has been filed challenging the order passed by the respondent dated 18.06.2018, thereby suspended the petitioner from service.

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

3. The petitioner was appointed as Village Administrative Officer. While being so, on complaint lodged by one Dhandapani, alleging that the petitioner demanded bribe of Rs.10,000/- for issuance of patta, FIR has been registered in Crime No.14/AC/2018/VPM on the file of the Inspector of Police, Vigilance and Anti Corruption, Villupuram for the offences punishable under Sections 7 and 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988. Accordingly, a trap was laid and the petitioner was got red-handed on 15.06.2018. Thereafter, he was arrested and remanded to judicial custody. Pursuant to the arrest, the petitioner was deemed to be suspended from service by an order dated 18.06.2018.

4. The only ground raised by the petitioner is that the



W.P.No.21077 of 2024

petitioner is in prolonged suspension and even today, the petitioner was not served with any charge memo. The criminal case is also pending in the FIR stage without filing any charge sheet.

5. A perusal of the records and also the written instructions submitted by the respondent reveals that after registration of the FIR as against the petitioner, the Investigating Officer completed the investigation and filed the final report. The same has been taken cognizance in S.C. No.2 of 2020 and subsequently, it was transferred to the Chief Judicial Magistrate Court, Kallakurichi and the same was renumbered as S.C. No.7 of 2024 and also two witnesses were examined.

6. The learned counsel for the petitioner relied upon the G.O.Ms.No.81, Human Resources Management (N) Department, dated 04.08.2022 and sought for revocation of the suspension and the petitioner may be placed in non-sensitive post. In the very same Government order states that in cases where the charge in the criminal case involves any complicated questions of law and fact and the disciplinary authority is not in a position to finalise the departmental disciplinary proceedings and if the criminal case is based on the vigilance report and is pending before



W.P.No.21077 of 2024

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 investigation 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.

7. Admittedly, the petitioner is yet to serve charge memo in the disciplinary proceedings. The Disciplinary Authority is waiting for verdict from the criminal Court. Though the Investigating Agency filed final report and the same has been taken cognizance, now only the trial is being commenced by examining P.Ws. 1 to 4.

8. Considering the facts and circumstances of the case and in view of the guidelines issued in G.O.Ms.No.81, Human Resources Management (N) Department, dated 04.08.2022, the respondent is directed to revisit the order of suspension dated 18.06.2018 and place the



W.P.No.21077 of 2024

petitioner in any non-sensitive post within a period of four weeks from the date of receipt of a copy of this order.

9. With the above direction, this writ petition stands disposed of. No costs.

26.07.2024

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

Neutral Citation : Yes/No

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To

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

G.K.ILANTHIRAIYAN. J.

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W.P.No.21077 of 2024

W.P.No.21077 of 2024

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