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W.P. No.24792 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.24792 of 2019
and
W.M.P.No.24425 of 2019

D.Elangovan

... Petitioner

Vs.

The Sub Collector,
Chidambaram.

...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to call for the records connected with the proceedings issued in Ref:A7/283/2019 dated 01.02.2019 passed by the respondent herein and quash the same and consequently direct the respondent to reinstate the petitioner into service.

For Petitioner : Mr.V.Gunasekar

For Respondent : Ms.V.Yamuna Devi
Special Government Pleader.

ORDER

Heard Mr.V.Gunasekar, learned counsel for the petitioner and Mr.V.Yamunadevi, learned Special Government Pleader for the respondents.

2. The brief facts that are relevant for disposal of this writ petition



W.P. No.24792 of 2019

are as under:

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While the petitioner was working as Village Administrative Officer, Panrangipettai Village, Bhuvanagiri Taluk, he was placed under suspension through proceedings bearing Ref.A7/283/2019 dated 01.02.2019 in exercise of power under clause (2) Rule 17(e) of Tamil Nadu Civil Services (Discipline and appeal) Rules, 1955 (in short 'Rules, 1955') on the ground that the petitioner was arrested and detained for the period longer than 48 hours. The petitioner was involved in criminal case vide Crime No.01/2019 u/s.7,13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988 and proceedings are stated to have been pending in Special Calendar Case Reg.No.19/2020 on the file of Chief Judicial Magistrate Court, Cuddalore for trial. The petitioner was placed under suspension, by an order dated 01.02.2019 and he is being continued under suspension for a past more than five years.

3. According to the learned counsel for the petitioner or as seen from the counter affidavit, there appears to be no order passed under Sub-Rule(5) of Rule 17(e) of Rules 1955, taking a decision as to whether the continuance of the petitioner under suspension is necessary in public interest



or not, by the competent authority.

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4. The counter affidavit filed by the respondent only stated that, in case the petitioner is re-instated to service pending criminal proceedings, the same would send wrong message. But the Rules, 1955 specifically provide for review of the suspension of any employee who is placed under suspension under all circumstances including on the grounds whether criminal proceedings were pending against the employee. Sub-Rule (5) of Rule 17(e) reads as under:

“Rule 17(e): Conditions under which a member of a Service be placed under suspension.

(5) Where a Government servant is suspended or is deemed to have been suspended (whether in connection with any disciplinary proceedings or otherwise) and any other disciplinary proceedings are commenced or any other criminal complaint is under investigation or trial against him during the continuance of that suspension, and where the suspension of the Government servant is necessary in public interest as required under clause (1), the authority competent to place him under suspension may, for reasons to be recorded by him in writing, direct that the Government servant shall continue to be under suspension



until the termination of all or any of such proceedings including departmental proceedings taken on the basis of facts which led to the conviction in a Criminal Court.”

5. In the light of the above Rule, it is obligatory on the part of the competent authority who placed the petitioner under suspension to review suspension and see as to whether continuance of the petitioner under suspension is necessary or not and to take a decision on the same.

6. In the light of the above, the writ petition is disposed of directing the respondents to review the order of suspension dated 01.02.2019 which is in operation for more than five years and take a decision under Sub-Rule (5) of Rule 17(e) of Rules, 1955 as expeditiously as possible at any rate within a period of four (4) weeks from the date of receipt of a copy of this order and communicate the same to the petitioner.

7. Accordingly, the writ petition is disposed of and the connected miscellaneous petitions, if any, shall stand closed. No costs.

27.06.2024



W.P. No.24792 of 2019

Index : Yes/No
Speaking Order : Yes/No
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To:

The Sub Collector,
Chidambaram.

MUMMINENI SUDHEER KUMAR,J.

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