



W.P.No.32876 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.32876 of 2023
and WMP Nos.32510 & 32511 of 2023

G.Vasanthi (F/57 Years)
D/o.K.R.Gopalakrishnan
Deputy Director of Town and
Country Planning
Dharmapuri Region
(under Order of Suspension)
677-P, Swami Malai Main Road
Opposite to Bakthi Vinayagar Koil
Kottiyur, Kumbakonam.

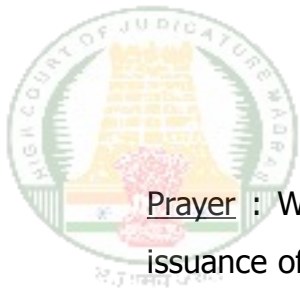
.... Petitioner

-Vs-

1.The Government of Tamil Nadu
Rep.by Principal Secretary to Government
(Housing and Urban Development Department)
Secretariat
Chennai 600 009.

2.The Director
Town and Country Planning Department
Secretariat
Chennai 600 009.

..Respondents



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Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to orders in (1) GO (3D) No.1, Housing and Urban Development (UD2(1) Department dated 08.01.2019 of the First Respondent (2) Letter No.26972 (UD2(1)/2019-4, Housing and Urban Development Department dated 05.02.2020 of the First Respondent (3) Letter No.RC No.25101/2018/K1 Dated 19.01.2023 issued by the Second Respondent, quash the same and issue consequential directions to the respondents to reinstate the petitioner in service with consequential benefits.

For Petitioner : Mr.M.Ravi

For Respondents : Mr.V.P.R.Elamparithi
Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned Government Order in GO (3D) No.1, Housing and Urban Development UD2(1) Department dated 08.01.2019 passed by the first respondent and the impugned letter dated 05.02.2020 of the 1st respondent and the impugned letter dated 19.01.2023 of the 2nd respondent and for a consequential direction to reinstate the petitioner into service.

2.The case of the petitioner is that she was working as a Deputy Director and an FIR came to be registered for offence under the Prevention of Corruption Act, 1988. The petitioner was arrested and remanded to judicial custody on 28.12.2018. Pursuant to the same, an order of suspension came to be passed on 08.01.2019 under Rule 17(2) (e) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules.



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3.The petitioner filed WP.No.35372 of 2019, challenging the order of suspension dated 08.01.2019. This writ petition was disposed of by an order dated 20.12.2019, with a direction to consider the representations made by the petitioner seeking for review and revocation of the order of suspension.

4.Pursuant to the above order, the representation made by the petitioner was considered and it was rejected through proceedings dated 05.02.2020. The same became a subject matter of challenge in WP.No.10013 of 2020. This writ petition ultimately came up for hearing on 22.12.2022 and this Court considering the fact that the petitioner was in prolonged suspension, gave liberty to the petitioner to submit a fresh representation to the 2nd respondent requesting for revocation of the suspension order. The 2nd respondent was directed to pass orders within a period of four (4) weeks.

5.Pursuant to the above order, the 2nd respondent through impugned proceedings dated 19.01.2023, rejected the claim made by the petitioner and refused to revoke the order of suspension on the ground that the criminal case is pending in Spl.CC.No.4 of 2020, before the concerned Court and that the petitioner is facing grave charges and therefore, the petitioner cannot be reinstated into service. Aggrieved by the same, the present writ petition has been filed before this Court.



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6.The 2nd respondent has filed a counter affidavit. The 2nd respondent has taken a stand that the petitioner was arrested in a criminal case by the Vigilance and Anti Corruption for committing an offence under the Prevention of Corruption Act. Investigation was completed and police report was filed before the Chief Judicial Magistrate/Special Judge, Krishnagiri and it was also taken on file in Spl.CC.No.4 of 2020. The 2nd respondent has placed reliance upon the judgment of the Apex Court in Ajay Kumar Choudhary case and the judgment in Ashok Kumar Aggarwal case and has taken a stand that the charges against the petitioner is serious and therefore, there is no scope for reinstating the petitioner into service. Accordingly, the 2nd respondent has justified the impugned order refusing to review and revoke the order of suspension passed against the petitioner.

7.Heard Mr.M.Ravi, learned counsel for the petitioner and Mr.V.P.R.Elamparithi, learned Additional Government Pleader for respondents.

8.The short issue that arises for consideration is as to whether the suspension order pending against the petitioner is liable to be interfered by this Court.

9.The suspension order came to be issued against the petitioner and it is being extended from time to time on the ground that the petitioner is facing criminal proceedings for committing offence under the Prevention of Corruption Act. That



apart, final report has also been filed and the case is pending trial before the criminal Court.

10.The petitioner is continuing in suspension for more than five years. The petitioner is drawing subsistence allowance till date without doing any work. It will take some more time for the criminal case to come to an end. Therefore, if the petitioner is going to be paid subsistence allowance continuously for years together without extracting any work from the petitioner, it will only be a drain on the public exchequer. This should be kept in mind while dealing with a prolonged suspension against a delinquent employee.

11.In the considered view of this Court, there would have been justification for keeping the petitioner under suspension in view of the criminal case registered against her in which the petitioner was also arrested. However, it cannot continue forever and in the instant case, it has continued for more than five years. The petitioner is also receiving substantial amount as subsistence allowance every month. Therefore, some work must be extracted from the petitioner considering the fact that the money is paid from the public exchequer.

12.In the light of the above reasoning, the impugned proceedings of the 2nd respondent dated 19.01.2023, refusing to revoke the order of suspension passed on



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08.01.2019, is hereby set aside. The order of suspension passed against the petitioner dated 08.01.2019, is also set aside. There shall be a direction to the 1st respondent to pass necessary orders within a period of four (4) weeks, revoking the order of suspension against the petitioner and to place the petitioner in some non-sensitive post.

13.In the result, this writ petition is allowed with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No
NCS : Yes/No
KP



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WEB COPY

To

1.Principal Secretary to Government
The Government of Tamil Nadu
(Housing and Urban Development Department)
Secretariat
Chennai 600 009.

2.The Director
Town and Country Planning Department
Secretariat
Chennai 600 009.



WEB COPY



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N.ANAND VENKATESH, J.

KP

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