



W.P.(MD)No.5554 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.04.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.5554 of 2024 &
W.M.P.(MD)Nos.5279 & 5280 of 2024

T.Nirmal Kumar

... Petitioner

vs.

1.The Commissioner of Rural Development and
Panchayat Raj,
Panagal Building, Saidapet,
Chennai - 15.

2.The District Collector,
Sivagangai District,
Collectorate,
Sivagangai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the second respondent vide his proceedings in Roc.P2.32927/2021 dated 08.12.2021 and consequential impugned order passed by the second respondent vide his proceedings in Roc.P2.32927/2021 dated 03.10.2022 quash the same as illegal and consequentially to direct the respondents to reinstate the petitioner within the period that may be stipulated by this Court.

For Petitioner : Mr.H.Mohammed Imran
for M/s.Ajmal Associates



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For Respondents : Mr.S.Shanmugavel,
Additional Government Pleader

ORDER

Heard Mr.H.Mohammed Imran, learned counsel for the petitioner and Mr.S.Shanmugavel, learned Additional Government Pleader for the respondents.

2. This writ petition has been filed seeking for writ of certiorarified mandamus to call for the records in Roc.P2.32927/2021 dated 08.12.2021 and consequential order in Roc.P2.32927/2021 dated 03.10.2022 passed by the second respondent, quash the same as illegal and consequentially to direct the respondents to reinstate the petitioner within the period stipulated by this Court.

3. The petitioner was placed under suspension on the allegation that he was involved in a corruption case. The petitioner has been kept under suspension for more than two years. Still, the criminal case is pending. The petitioner has filed a representation to revoke the suspension and the same was rejected stating the reason of pending



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criminal case.

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4. Mr.H.Mohammed Imran, learned counsel for the petitioner submitted that Government has issued a Government Order in G.O.Ms.No.81, Human Resources Management (N) Department dated 04.08.2022, wherein it is stipulated as follows.

"11....

(viii) When the disciplinary authority comes to a conclusion suo-motu or after conclusion of the investigation by the Director of Vigilance and Anti-Corruption, the disciplinary authority shall, while initiating action by issue of charges under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules or under Rule 3(b) of the Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules, 1955 as the case may be, examine with reference to the facts established which form the basis for the charges, whether public interest or the needs for further proceedings will require continued suspension of the Government Servant already under suspension."



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5. The learned counsel for the petitioner further submitted that the impact of G.O.Ms.No.81, Human Resources Management (N) Department dated 04.08.2022 has been considered in W.P.No.11642 of 2021 dated 10.10.2023 and the following order has been passed.

"9. Even though the respondent has filed the counter, it is insisted that the petitioner should be under suspension. However, no reasons is stated as to why the investigation is still pending or whether there are any special reasons to prevent the investigation to proceed further. Admittedly, there is no order of stay to stop the furtherance of the investigation. In the absence of any special reasons stated by the respondent, I feel that the benefit of the aforesaid Government Order should be given to the petitioner.

10. The learned counsel for the petitioner attracted the attention of this Court to similar such order passed by this Court in W.P.No.17448 of 2022 vide order dated 01.08.2023 for a similar situation on identical facts. In the said order, direction has been given to the respondent to review the suspension in light of the guidelines in the aforesaid Government



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Order and post the petitioner in a non sensitive post within a period of one month.

11. The petitioner has also given a representation to the Director General of Police, Tamil Nadu, Chennai, dated 23.06.2021 and no order has been passed to reinstate the petitioner.

12. The Government is giving Subsistence allowance to the persons like petitioners for a very long time but without extracting any service from them and neither proceeding with the criminal case filed against them. Therefore, I feel it is appropriate to pass an order to revoke the suspension and reinstate the petitioner and post her in any non~sensitive post. Thereby, the suspension order passed against the petitioner in R.C.No.A3/0001/Crime/2021~1, C.O.No.001/2021 dated 03.01.2021 is liable to be set aside."

6. The second respondent / District Collector, Sivagangai District has filed a counter affidavit.

7. As per the above said G.O., when the disciplinary authority comes to a conclusion suo-motu or after the completion of the



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investigation by the Director of Vigilance and Anti-Corruption, the disciplinary authority shall, while initiating action by issuing the charges under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, examine the facts established and check whether public interest is involved and it requires to continue the suspension of the Government Servant already under suspension.

8. In the impugned order dated 03.10.2022, the guideline issued in the above said G.O. has not been considered, but, simply stated that a criminal case is pending against the petitioner. It is also stated that the time limit of three months of suspension is applicable only to those suspension arose out of non-vigilance / non-criminal cases.

9. G.O.Ms.No.81, Human Resources Management (N) Department dated 04.08.2022 made a direct reference to the grave charges and hence, the respondents cannot take exception to the above G.O. and claim that the guidelines are applicable only for inquiries pertaining to non-vigilance and non-criminal cases. In the impugned order, no



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reference has been made to the above said G.O., but, reliance has been placed upon over the Government Letter No.13519/N/2015-1, dated 23.07.2015 alone. The subsequent orders have been passed specifically with regard to grave charges and it speaks about how to review the suspension orders. While passing impugned order dated 03.10.2022, the second respondent ought to have considered the above said G.O.

10. In view of the same, the writ petition is allowed and impugned orders dated 08.12.2021 in Roc.P.32927/2021 and dated 03.10.2022 in Roc.P.32927/2021 are quashed. The second respondent is directed to pass orders afresh taking into consideration of G.O.Ms.No.81, Human Resources Management (N) Department dated 04.08.2022 within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petitions are closed.

01.04.2024

NCC: Yes/No
Index : Yes/No
Speaking/Non-Speaking order
mbi



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To
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R.N.MANJULA, J.

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