



W.P.(MD).No.5773 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.03.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.5773 of 2024

M.Balasundaram

... Petitioner

Vs.

**1.The District Collector,
Karur, Karur District.**

**2.The District Revenue Officer,
Karur, Karur District.**

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st respondent to consider the petitioner's representation, dated 01.11.2023 and 09.01.2024 to revoke the order of suspension passed by the 1st respondent in his proceedings in Rc.A2/10450/2019, dated 08.07.2019 and place the petitioner in any non sensitive post by reviewing the same in terms of Clause 11(xi) of G.O.Ms.No. 81 Human Resource Management (N) Department, dated 04.08.2022 within the period that may be stipulated by this Court.



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For Petitioner : Mr.C.Venkatesh Kumar
for M/s.Ajmal Associates

For Respondents : Mr.J.K.Jeyaselan
Government Advocate

ORDER

The present writ petition has been filed seeking a direction to the 1st respondent to consider the petitioner's representation, dated 01.11.2023 and 09.01.2024 to revoke the order of suspension passed by the 1st respondent in his proceedings in Rc.A2/10450/2019, dated 08.07.2019 and place the petitioner in any non sensitive post by reviewing the same in terms of Clause 11(xi) of G.O.Ms.No. 81 Human Resource Management (N) Department, dated 04.08.2022 within the period that may be stipulated by this Court.

2. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

3. The petitioner is working as Special Tahsildar, Arasu Cable TV Corporation, Taluk Office, Karur. A case was registered against him in Crime No.3 of 2019, dated 06.07.2019 under Section 7 of the Prevention of



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Corruption (Amendment) Act, 2018. Following which, the 1st respondent placed him under suspension alleging that an enquiry into grave charges against him is contemplated. Later, he was issued with a charge memo under Rule 17 (b) of the Tamil Nadu Civil Services and Appeal Rules by the 1st respondent vide proceedings, dated 21.08.2020. The petitioner had submitted his explanation for the charge memo and without being satisfied with the explanation, an Enquiry Officer was appointed and the same is pending till date. In the meanwhile, the criminal case culminated in filing of charge sheet in C.C.No.4 of 2021 on the file of the Chief Judicial Magistrate, Karur and the trial has also been commenced. The petitioner has been suspended as early as on 08.07.2019 and the same has not been revoked so far for the past 4 years and 8 months, but the petitioner has been paid with 75% of subsistence allowance from the date of suspension.

4. Clause 11 (xi) of G.O.Ms.No.81, Human Resources Management Department, dated 04.08.2022 mandates that, in cases where the charge memo in criminal case involves complicated questions of law and fact and if the disciplinary proceedings and the criminal case is based on the vigilance report



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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. Since the petitioner has been kept under suspension for a prolonged period of 4 years and 8 months, relying upon the said Government Order, the petitioner made several representations to the 1st respondent to revoke his suspension and place him in a non-sensitive place. The last of such representation was made on 09.01.2024. However, the same was not considered.

5. The learned Government Advocate on written instructions submitted that the Vigilance Commission has already given a report on 14.06.2023 in this regard and on that basis, the 1st respondent would consider the case of the petitioner in the light of G.O.Ms.No.81, Human Resources Management Department, dated 04.08.2022 in accordance with law.

6. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondent to



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consider the same on its own merits and pass appropriate orders in one way or other instead of keeping the same pending indefinitely. As such, non-consideration of the representation made by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking the extraordinary powers under Article 226 of the Constitution of India.

7. Without going into the merits of this case, this Court direct the 1st respondent to consider the petitioner's representation, dated 01.11.2023 and 09.01.2024 and pass appropriate orders in accordance with law in the light of G.O.Ms.No.81, Human Resources Management Department, dated 04.08.2022 within a period of eight (8) weeks from the date of receipt of copy of this order.

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

11.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
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L.VICTORIA GOWRI, J.

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To

- 1.The District Collector,
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- 2.The District Revenue Officer,
Karur, Karur District.

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