



W.P.(MD)No.5926 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.07.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.5926 of 2024

and

W.M.P.(MD).No.5566 of 2024

R.Senthil

... Petitioner

Vs.

The District Collector,
Theni District,
Theni.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned suspension order in R.O.C.No.21657/2021/A5, dated 09.07.2021, issued by the respondent and quash the same as illegal.

For Petitioner : Mr.A.N.Ramanathan

For Respondent : Mr.J.Ashok,
Additional Government Pleader

ORDER

Heard Mr.A.N.Ramanathan, learned counsel appearing for the petitioner and Mr.J.Ashok, learned Additional Government Pleader appearing for the respondent.



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2. This Writ Petition has been filed challenging the impugned suspension order in R.O.C.No.21657/2021/A5, dated 09.07.2021, issued by the respondent.

3. Mr.A.N.Ramanathan, learned counsel appearing for the petitioner submitted that earlier, the petitioner has filed W.P.(MD).No.12367 of 2021 challenging the very same order of suspension, in which, a direction has been given by this Court to the respondent to conclude the departmental proceedings initiated against the petitioner within a period of six months vide order dated 12.01.2022. In fact, this is a conditional order which would state if the departmental proceedings are not concluded within the stipulated period, the respondents shall review the order of suspension as per the dictum laid down by the Hon'ble Apex Court in the case of ***Ayaj Kumar Choudhary vs. Union of India*** reported in ***(2015) 7 SCC 291***. For the sake of clarity, the relevant portion in the said order is extracted hereunder:

*“6. In view of the above, the respondents are directed to conclude the departmental proceedings initiated against the petitioner within a period of six months from the date of receipt of a copy of the order and if the departmental proceedings are not concluded within the stipulated period, the respondents shall review of the order of suspension as per the dictum laid down by the Hon'ble Supreme Court in ***Ajay Kumar Choudhary Vs Union of India, (2015) 7 SCC 291***. It is needless to state*



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that the petitioner is entitled for subsistence allowance during the suspension period.”

4. Mr.J.Ashok, learned Additional Government Pleader appearing for the respondents submitted that the enquiry has already been initiated and it is pending at the stage of appointing an enquiry officer.

5. The above submission would only show that the respondent has not taken any fast steps to conclude the disciplinary proceedings pending against the petitioner.

6. Mr.A.N.Ramanathan, learned counsel appearing for the petitioner relied upon the Judgment of the Full Bench of this Court in W.P.Nos.2165 of 2015 and 21628 of 2018, wherein, it is held that the revocation of suspension cannot be strictly considered for want of furnishing of the charge sheet irrespective of the gravity of the charges. It is further submitted that even though the petitioner has been kept under suspension pursuant to a case registered against him, charge sheet has not yet been filed.

7. The sum and substance of the order passed by the Full Bench of this Court in W.P.Nos.2165 of 2015 and 21628 of 2018 is that the order of



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revocation has to be considered depending upon the facts of each case and on case basis by analyzing the gravity of the offence. But, at the same time, the Government money cannot be wasted by paying the subsistence allowance for a delinquent indefinitely without conducting the proceedings with a due momentum. In fact, only in that spirit, this Court has observed in the earlier Writ Petition that the disciplinary proceedings should be completed within a period of six months. After a period of two years, it is submitted that an Enquiry Officer has been appointed.

8. In view of the same, this Writ Petition is disposed of with a direction to the respondent to revoke the suspension order of the petitioner and reinstate him by posting him in any of the non sensitive post and complete the disciplinary proceedings and pass appropriate orders on merits and in accordance with law within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

09.07.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
TSG



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To
The District Collector,
Theni District,
Theni.

R.N.MANJULA, J.



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