



W.P.(MD)No.6982 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.04.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.6982 of 2024

Thangavelu

... Petitioner

Vs.

1.The District Collector
Dindigul, Dindigul District

2.The District Revenue Officer
Dindigul, Dindigul District

3. The Revenue Divisional Officer
Dindigul, Dindigul District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the impugned order passed by the 3rd respondent vide his proceedings in Roc.No.611/2021/A4 dated 24.09.2021 and quash the same as illegal and consequentially to direct the 3rd respondent to reinstate the petitioner in service within the time frame stipulated by this Court.

For Petitioner : Mr.G.Anto Prince

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



W.P.(MD)No.6982 of 2024

ORDER

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Petitioner who was placed under suspension for nearly two years and six months has filed this Writ Petition challenging the order of suspension in Roc.No.6151/2021/A4 dated 24.09.2021, quash the same as illegal and direct the respondents to reinstate the petitioner in service.

2. Learned counsel for the petitioner squarely relies upon the judgment of the Hon'ble Supreme Court in *Ajay Kumar Choudhary Vs. Union of India through its Secretary and another*, reported in AIR 2015 SC 2389, wherein it is held that the period of suspension should not extend beyond period of three months if within the said period memorandum of charges/chargesheet is not served on the delinquent and even if the charge sheet is served within the said period a reasoned order should be passed for extending the suspension. However, in the said case, the appellant has been served with the charge sheet no further direction has been given.

3. In the instant case, no charge sheet was served upon the petitioner despite he was placed under suspension for more than two years and six months. The reason for keeping the petitioner under suspension is on the allegation that



W.P.(MD)No.6982 of 2024

the petitioner got bribe and a criminal case in this regard has also been filed and it is still pending against him. He relied upon the full bench judgment of the Principal Bench in ***P.Kannan Vs. The Commissioner for Municipal Administration and Ors***, made in W.P.Nos.2165 of 2015 and 21628 of 2018, dated 15.03.2022, the Full Bench of this Court has held that Apex Court judgment in ***Ajay Kumar Choudhary***'s case does not lay down absolute proposition of law that an order of suspension cannot be continued beyond a period of three months if the memorandum of charge sheet is not served within three months. So it is held that the issue of challenge to the order of suspension has to be analysed on the fact of each case and keeping with the gravity of the charges.

4. It is further held that in a case of trap, an order of interference with the order of suspension would have serious consequences. The Full Bench has made a specific observation that all the cases where memorandum of charges/charge sheet was not filed within three months if an order of revocation is passed with a direction to reinstate the delinquent in a non-sensitive post would have also some serious consequences. Hence, due caution should be made before issuing such order.



W.P.(MD)No.6982 of 2024

5. An illustration has also been made in the said order for placing an employee for revoking the suspension of an employee against whom allegation of rape has been made by a co-employee followed by a registration of a criminal case. It is held that merely because a charge sheet could not be submitted within a period of three months, order of suspension cannot be revoked with any consequential direction. In the instant case, the petitioner is said to have involved in a trap case but in a case of such a serious nature investigation ought to have been completed within a short time and the petitioner should have been given with a charge sheet. Nothing would have precluded the respondent from furnishing the charge memo if the respondents deem it fit to initiate disciplinary proceedings. But so far, the respondents have not taken any steps in that direction. Though it is right to state that revoking suspension of this nature would have serious consequence, if the respondents do not show enough seriousness in serving the charge memo at the earliest in order to initiate the disciplinary proceedings to be completed within any specific time frame just because the petitioner is said to have trapped and involved in DVAC case, the suspension cannot be kept eternally without any revision.

6. As rendered in the *Ajay Kumar Choudhary's* case, the respondents have not passed any revised orders so as to continue the order of suspension. In



W.P.(MD)No.6982 of 2024

such case, paying the subsistence allowance without getting any work done by a staff is also a loss to the Government. Hence, I feel pending investigation/pending criminal case, the order of suspension be revoked and the petitioner can be reinstated in some non-sensitive post.

In the result, the Writ Petition is disposed of with the above observations.

No costs.

10.04.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
kpr

To

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W.P.(MD)No.6982 of 2024

R.N.MANJULA, J.

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W.P.(MD)No.6982 of 2024

10.04.2024