



W.P.(MD)No.11052 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.06.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.11052 of 2024

R.Premkumar

... Petitioner

Vs.

The Superintendent of Police,
Tenkasi District,
Tenkasi.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondent to revoke the suspension order passed by him in his proceedings in C.No.P1/17798/2022, D.O.No.431/2022 dated 19.05.2022 in the light of the Judgment rendered in Ajaykumar Chowdhary vs. Union of India and others reported in 2015 (3) CTC 119 and based on the petitioner's representation dated 16.03.2023 and consequently direct the respondent to reinstate him and post him in a non-sensitive post.

For Petitioner
For Respondent

: Mr.G.Thalaimuthurasu
: Mr.N.Ramesh Arumugam
Government Advocate

ORDER

Heard Mr.G.Thalaimuthurasu, learned counsel appearing for the petitioner and Mr.N.Ramesh Arumugam, learned Government Advocate appearing for the respondent.



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2. This Writ Petition has been filed seeking direction to the respondent to revoke the suspension order passed by the respondent in his proceedings in C.No.P1/17798/2022, D.O.No.431/2022 dated 19.05.2022 and consequently direct the respondent to reinstate the petitioner in service and post him in a non-sensitive post.

3. The petitioner was appointed as Grade-II Police Constable on 15.04.1997 in the respondent Department and then, he was upgraded as Grade-I Police Constable in the year 2007 and thereafter, he was upgraded as Head Constable in the year 2014. While so, the Inspector of Police, Anti-Land Grabbing Special Cell, Tenkasi District, has arrested the petitioner in connection with a criminal case registered in Crime No.122 of 2021 for the alleged offences under Sections 120B, 419, 420, 423, 465, 468 and 471 IPC based on the confession statement of the co-accused and thereafter, the investigation has been completed and the same was taken cognizance in C.C.No.203 of 2023 before the learned Judicial Magistrate, Shenkottai and the case is pending for trial. The allegation against the petitioner is that the petitioner herein has fabricated documents and created a forged sale deed. In view of the same, the petitioner was placed under suspension on 19.05.2022. The petitioner has given a representation to the respondent on 16.03.2023 to



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revoke the suspension order passed against him in the light of the Judgment rendered in ***Ajaykumar Chowdhary vs. Union of India and others*** reported in ***2015 (3) CTC 119***.

4. Mr.G.Thalaimuthurasu, learned counsel appearing for the petitioner submitted that the petitioner is kept under suspension for more than two years and no review order has been passed for continuing the petitioner under suspension. The petitioner has given a representation to the respondent on 16.03.2023 seeking reinstatement. But the same has not been considered by the respondent. Hence, the petitioner has filed this Writ Petition.

5. Mr.G.Thalaimuthurasu, learned counsel appearing for the petitioner attracted the attention of this Court to the Judgment rendered in ***Ajaykumar Chowdhary vs. Union of India and others*** reported in ***2015 (3) CTC 119*** and the same is extracted hereunder:

“8. Suspension, specially preceding the formulation of charges, is essentially transitory or temporary in nature, and must perforce be of short duration. If it is for an indeterminate period or if its renewal is not based on sound reasoning contemporaneously available on the record, this



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would render it punitive in nature. Departmental/disciplinary proceedings invariably commence with delay, are plagued with procrastination prior and post the drawing up of the memorandum of charges, and eventually culminate after even longer delay.

9. Protracted periods of suspension, repeated renewal thereof, have regrettably become the norm and not the exception that they ought to be. The suspended person suffering the ignominy of insinuations, the scorn of society and the derision of his department, has to endure this excruciation even before he is formally charged with some misdemeanour, indiscretion or offence. His torment is his knowledge that if and when charged, it will inexorably take an inordinate time for the inquisition or inquiry to come to its culmination, that is, to determine his innocence or iniquity. Much too often this has now become an accompaniment to retirement. Indubitably, the sophist will nimbly counter that our Constitution does not explicitly guarantee either the right to a speedy trial even to the incarcerated, or assume the presumption of innocence to the accused. But we must remember that both these factors are legal ground norms, are inextricable tenets of



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Common Law Jurisprudence, antedating even the Magna Carta of 1215, which assures that — “We will sell to no man, we will not deny or defer to any man either justice or right.” In similar vein the Sixth Amendment to the Constitution of the United States of America guarantees that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial. ”

6. The above decision is squarely applicable to the case on hand. In view of the same, the Writ Petition is **disposed of** with a direction to the respondents to consider the representation of the petitioner, dated 16.03.2023 for revoking the suspension of the petitioner and pass appropriate orders on merits and in accordance with law within a period of three weeks from the date of receipt of a copy of this order. No costs.

03.06.2024

Index:yes/no

Internet:yes/no

Ncc : yes/no

TSG

To

The Superintendent of Police,
Tenkasi District,
Tenkasi.



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R.N.MANJULA, J.

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