



W.P.(MD).No.12885 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 18.06.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.12885 of 2024
and
W.M.P.(MD).No.11465 of 2024

T.Kanchana

...Petitioner

Vs

- 1.The Commissioner,
Tamil Nadu Survey and Settlement Department,
Survey House, Chepauk,
Chennai – 600 005.
- 2.The Regional Deputy Director,
Survey and Land Records,
Collector Office Road,
Madurai – 625 020.
- 3.The Assistant Director & P.A to Collector,
Survey and Land Records,
Collector Office Road,
Madurai – 625 020.
- 4.The District Collector,
Survey and Land Records,
Collector Office, Collector Office Road,
Madurai – 625 020.



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5.The Tahsildar,
Taluk Office,
Usilampatti,
Madurai District.

...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records and quash the proceedings of the third respondent in Roc.A4/0007/2022, dated 03.01.2022 as being null and void and consequently seeking appropriate directions against the third respondent to reinstate the petitioner in service subject to the outcome of the Criminal Case pending against the petitioner in Cr.No.18 of 2021, Vigilance and Anti-Corruption, Madurai with all attendant benefits.

For Petitioner : Mr.V.Balasubramanian

For Respondents : Mr.J.Ashok
Additional Government Pleader

ORDER

Heard Mr.V.Balasubramanian, learned counsel for the petitioner and Mr.J.Ashok, learned Additional Government Pleader for the respondents.



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2. The petitioner who was kept under suspension on 03.01.2022 has filed this Writ Petition seeking to quash the same and with a consequential direction to the third respondent to reinstate the petitioner into service, subject to the out come of the criminal case in Crime No.18 of 2021, Vigilance and Anti-Corruption, Madurai, with all attendant benefits.

3. No doubt, the charges involved against the petitioner was serious and it involves Vigilance and Anti-Corruption allegation. In fact, a criminal case was registered against the petitioner for the very same allegation in Crime No.18 of 2021.

4. According to the submission made by the learned Government Advocate, the charge sheet has been filed in the above case and it has been taken on file.

5. However, no order has been passed by revising the circumstances that has risen consequent to the suspension order dated 03.01.2022 to continue to place the petitioner under suspension. The



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law in this aspect has been well settled by the Hon'ble Supreme Court in the case of ***Ajay Kumar Choudhary Vs Union of India through its Secretary and another reported in AIR 2015 SC 2389***, wherein it has been held that the period of suspension should not extend beyond the period of three months in case memorandum of charges has not been served upon the petitioner and in case, the charge sheet is served within the said period, a reasoned order should be passed for extending the suspension.

6. In the instant case, the petitioner has not been issued with any charge memo even though he was kept under suspension from the year 2022. There cannot be any disagreement of the full bench Judgment of this Court held in the case of ***P.Kannan and Another Vs. The Commissioner of Municipal Administration and others (W.P.Nos.2165 of 2015 and 21628 of 2018 dated 15.03.2022)***, wherein it is held that the issue of challenge to the order of suspension should be analysed in accordance with the facts of each case keeping in mind the gravity of charges but also in the light of the judgment of the Hon'ble Supreme Court in ***Ajay Kumar Choudhary's case***. However, in the very same judgment of the Hon'ble Full Bench Court, it has been observed that



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wherever the memorandum of charges/charge sheet was not served within a period of three months, directions are to be passed to reinstate the delinquent in a non-sensitive post and that will also have some serious consequences. In the case in hand, the petitioner is involved in a trap case under which the criminal case has been registered and the charge sheet in the criminal case has been filed. In view of the seriousness of the charges, the respondents could have given the charge sheet for disciplinary action any time before, even without waiting for the charge sheet to be filed in the DVAC case. In this regard, it is relevant to refer the earlier judgment of this Court in W.P.(MD).No.6982 of 2024 dated 10.04.2024. In the said judgment, the following observation has been made:

“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.



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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 does 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*



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to continue the order of suspension. In 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.”

7. Since the facts involved in this case is also as similar as that of the facts involved in the above referred case, I feel the petitioner is also entitled to the same relief as already granted.

8. Following the judgment cited supra, this Writ Petition is **disposed of** with a direction to the respondents to revoke the suspension order and the petitioner can be reinstated in some non-sensitive post. No costs. Consequently, connected miscellaneous petition is closed.

18.06.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



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R.N.MANJULA, J.

Nsr

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