



WP(MD) No.16925 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.07.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.16925 of 2024
and WMP(MD)Nos.14583 & 14587 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 Certiorarified Mandamus, calling for the records relating to the impugned order of suspension passed by the 1st respondent in his proceedings in Rc.A2/10450/2019 dated 08.07.2019 and the consequential impugned order passed by the 1st respondent in his proceedings in Na.Ka.A2/10450/2019 dated 24.06.2024 and quash the same as illegal and consequentially to direct



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the 1st respondent to reinstate the petitioner in service within the period that may be stipulated by this Court.

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

For Respondents : Mr.J.Ashok
Additional Government Pleader

ORDER

Heard Mr.C.Venkatesh Kumar, learned counsel for the petitioner and Mr.J.Ashok, learned Additional Government Pleader for the respondents.

2.The petitioner has filed this Writ Petition challenging the impugned suspension order dated 08.07.2019 and consequential order dated 24.06.2024 and further to direct the 1st respondent to reinstate the petitioner in service within the specific time.

3. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.



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4. The petitioner was working as a Special Tahsildar and he was placed under suspension on 08.07.2019 for certain allegations. As the petitioner was placed under suspension for a very long time without revision, he has filed W.P.(MD)No.5773 of 2024 wherein a direction has been given by this Court on 11.03.2024 to consider the petitioner's representation in the light of G.O.Ms.81 dated 04.08.2022.

5. For the sake of clarity, the operative part of the order passed in W.P.(MD)No.5773 of 2024 is extracted as under:

“ 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 Resource Management (N) Department dated 04.08.2022 within a period of eight(8) weeks from the date of receipt of a copy of this order.”

6. In compliance of the said order, the petitioner's representation has been considered. However, an order has been passed



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7. A distinction has been drawn in the impugned order by stating that the Government order in G.O.Ms.No.81 dated 04.08.2022 and the judgment of the Supreme Court made in *Ajay Kumar Choudhary v. Union of India through its Secretary and another in Civil Appeal No.1912 of 2015* dated 16.02.2015 can be considered only on a case to case basis. It is further alleged that the charges are serious in nature and involves allegation of corruption. Hence, suspension cannot be revoked as a matter of right. Reference was made to the order passed in W.P.Nos.2165 of 2015 and 21628 of 2018, wherein the full bench of this Court has passed an order on 15.03.2022 by making a distinction between the position settled on by the Supreme Court in Ajay Kumar Choudhary case and the pending charges in respect of allegations of corruption. In the said judgment also it is held that the gravity of allegations will make a difference in considering the request for revocation of suspension by keeping in mind the public interest.



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8. In the impugned order itself, it is stated that the petitioner has been charged for having received Rs.5000/- as bribe for giving patta in respect of vacant site. Even though in the allegations of corruption, the amount involved does not make a difference but the delay matters a lot. The petitioner who has been alleged for having received Rs.5000/- as bribe is placed under suspension from 08.07.2019 to till date without completing the disciplinary proceedings. A criminal case is said to have been registered against the petitioner and the same is also pending. Since the pending criminal case cannot have any relevancy to the departmental proceedings, the respondent department could have continued the disciplinary proceedings and completed the same in the interest of justice.

9. Since inordinate delay has been made in the matter where the petitioner has alleged by receiving Rs.5000/- as bribe, I feel that, in all fairness, the first respondent ought to have considered and revoked the suspension of the petitioner and it would have been in the discretion of the first respondent in case of such revocation to post the petitioner in



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any non-sensitive post.

10. In view of the long suspension, the petitioner is being paid with 75% of the suspension allowance without extracting any work from him. When similar such matter was taken by this Court in W.P.No. 11642 of 2021, this Court has referred G.O.Ms.No.81 dated 04.08.2022 and also referred the judgment held in ***P.Kannan and another v. Commissioner of Municipal Administration*** and had passed the following order:

“12. The Government is giving Subsistence allowance to the persons like petitioners for a very long time but without extracting any service from them and neither proceeding with the criminal case filed against them. Therefore, I feel it is appropriate to pass an order to revoke the suspension and reinstate the petitioner and post her in any non sensitive post. Thereby, the suspension order passed against the petitioner in R.C.No.A3/0001/Crime/2021-1, C.O.No.001/2021 dated 03.01.2021 is liable to be set aside.”

11. In the light of the above judgment, this Court is of the view that similar relief can be extended to the petitioner by giving suitable



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directions to the first respondent.

12. In the result, this writ petition is **allowed**. The impugned order of suspension passed by the 1st respondent in his proceedings in Rc.A2/10450/2019 dated 08.07.2019 and the consequential impugned order passed by the 1st respondent in his proceedings in Na.Ka.A2/10450/2019 dated 24.06.2024 are set aside. The first respondent is directed to reinstate the petitioner and post him in any non-sensitive post within a period of one month from the date of receipt of a copy of this order. No Costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes / No
NCC : Yes / No
PJJ

To
1.The District Collector,
Karur, Karur District.

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



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R.N.MANJULA, J.

PJL

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