



W.P.(MD).No.24805 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.24805 of 2024

and

W.M.P(MD) No.21131 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, praying this Court to issue a Writ of Certioraified Mandamus, to call for the records on the file of the respondent in Na.Ka.No.P1/PR.49/2022, dated 14.06.2024 and 04.07.2024 set aside the same and consequently 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 as well as* direct the respondent to reinstate the petitioner's and post him in a non-sensitive post.



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For Petitioner : Mr.G.Thalaimutharasu

For Respondent : Mr.S.S.Madhavan
Government Advocate

ORDER

The instant writ petition has been filed by a Head Constable, challenging the order, wherein his request for revocation of the order of suspension dated 19.05.2022 has been rejected, on the ground that the petitioner is involved in a criminal case and time limit fixed under G.O(Ms) No.81, Human Resources Management (N) Department, dated 04.08.2022, will not be applicable where the criminal cases are pending.

2. According to the learned counsel appearing for the writ petitioner, the respondent has not considered the Clause 11 of the above said Government Order, wherein it directs the concerned authority to reconsider the order of suspension even in cases where the charge in the criminal case involves complicated questions of law and fact.



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3. However, the learned Government Advocate appearing for the respondent herein had contended that since the petitioner was involved in a land grabbing case and charge under Section 420 of I.P.C, charge sheet has been laid in C.C.No.203 of 2023 before the Judicial Magistrate, Chengottai, the question of reconsidering the order of suspension does not arise.

4. I have perused G.O.(Ms) No.81, Human Resources Management (N) Department, dated 04.08.2022, and Clause No.(xi) is extracted as follows:

“..... (xi) In cases where the charge in the criminal case involves complicated questions of law and fact and the disciplinary authority is not a position to finalize the departmental disciplinary proceeding and if the criminal case is based on the vigilance report and is pending before the Court of law for which no reasons are explained explicitly, the authority competent may take a decision by taking up review of suspension and post the Government Servant in a non-sensitive place in consultation with the appropriate investigating authority/Vigilance Commission on case to case basis in view of the reason that prolonged suspension and paying subsistence allowance for a



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long period without extracting work is not at all acceptable. Such revocation of suspension can be made based on the facts of each case and after noticing the reason for the delay in serving the memorandum of charges/ charge sheet. The decision of the Hon'ble High Court of Madras in P.Kannan case, given in para 5 above, shall be taken into account.”

5. As per the above said Clause, even in cases where the charge in the criminal case involves complicated questions of law, the competent authority may take a decision by taking up review of suspension and post the Government servant in a non-sensitive place in consultation with the appropriate authority /Vigilance Commission on case to case basis, in view of the reason that prolonged suspension and paying subsistence allowance for a long period is not at all acceptable.

6. In the present case, the petitioner is under suspension for more than two years and therefore the respondent herein is directed to reconsider the order of suspension, in the light of Clause 11 of the above said Government Order and pass orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.



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7. With the above said observations, this Writ Petition stands allowed.

There shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

The Superintendent of Police,
Tenkasi District,
Tenkasi.



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R.VIJAYAKUMAR,J.

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