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W.P.No.6236 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.12.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No. 6236 of 2022
&
W.M.P.Nos. 6300 & 6302 of 2022

M.Vetrivel

...Petitioner

Vs.

The Revenue Divisional Officer,
Erode District.

...Respondent

Prayer: Writ Petition is filed under Section 226 of the Constitution of India for issue of Writ of Certiorarified Mandamus, calling for the records relating to the respondent vide proceedings Na.Ka.No.2595/2021/A2 dated 09.12.2021 and also the impugned order of suspension issued by the respondent vide proceedings Ref.No.2595/2021/A2 dated 22.07.2021 and to quash the same.

For Petitioner : Mr. S.Vijayakumar
Senior Counsel
For Mr. G.Bharadwaj

For Respondents : Mrs. S.Anitha
Special Government Pleader.



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ORDER

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The petitioner seeks to quash the order passed by the respondent in his proceedings dated 09.12.2021 bearing Na.Ka.No.2595/2021/A2 and also the impugned order of suspension issued vide proceedings dated 22.07.2021 in reference No.2595/2021/A2. The facts giving raise to the above writ petition is set out herein below.

2. The petitioner's father who was in the Government service died in harness on 22.04.2013 and consequently, the petitioner was appointed as a Village Administrative Officer on compassionate appointment on 30.06.2014. He was appointed in Vadugapatti A Village, Erode. After putting in 7 years of service, he was regularised in service of the respondent by proceedings dated 18.05.2021. Ever since, he has been continuing in the said post.

3. During the petitioner's tenure as VAO, one K.Bhuvaneswari, had approached him with reference to issue of transfer of patta in her favour. Later, the said Bhuvaneswari had filed a false complaint



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against the petitioner resulting in registration of FIR No.7/AC/2021 dated 20.07.2021, on the file of the Vigilance and Anti Corruption Department, Erode. The said complaint was nothing but vexatious and false one.

4. Thereafter, the respondent issued an order of suspension by proceedings in reference No.2594/2021/A2 dated 22.07.2021 under Rule 17 (e) (2) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, hereinafter called the Rules and the petitioner was placed under suspension. This order was served on the petitioner on 22.07.2021 and at the time of filing of this writ petition, the order of suspension was more than 7 months old and neither the charge sheet nor charge memo in proceeding had been issued.

5. The petitioner sent a representation dated 25.09.2021, seeking to review of the order of suspension and sought reinstatement in service. Though the representation was duly received, no action was taken at the end of the respondent. Therefore, the petitioner had filed WP.No.23113 of 2021, for issuance of mandamus directing the



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respondent to revoke the suspension order by considering his representation dated 25.09.2021.

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6. This Court, by order dated 28.10.2021 had directed the respondent to consider and pass order on the representation. Immediately, on receiving the order copy in WP.No.23113 of 2021, the petitioner had once again submitted a representation dated 09.11.2021, enclosing a copy of the order in the writ petition and requested the respondent to comply with the same. Thereafter, the impugned order has been passed rejecting the request of the petitioner. Aggrieved by the same, the petitioner is before this Court.

7. The respondent have filed a counter denying the claim of the petitioner. They would submit that the petitioner in trap proceeding had once again reiterated his earlier demand of Rs.10,000/- and directed the complainant to give money to the lady who was running “Spice Net E Service Center”. They would also submit that the Directorate of Vigilance and Anti Corruption Department, Chennai, had called for a report vide their letter dated 26.07.2021. At this juncture,



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the petitioner had submitted a representation dated 25.09.2021 to the respondent herein. They would also submit that they could not consider the representation as the criminal case was pending before the Vigilance and Anti Corruption Department, Erode, and charge sheet was yet to be framed. Thereafter, the impugned order came to be passed, which is the subject matter of challenge in this writ petition. Ultimately, they sought for the dismissal of the writ petition.

8. The learned counsel for the petitioner would submit that prolonged suspension is not permissible under law and the Hon'ble Supreme Court in catena of cases have held so.

9. Heard the learned counsel on either side and perused the records.

10. In the order dated 09.12.2021, reference was made to a letter dated 26.04.2016, bearing Government Letter (MS).No.43/N/2015-3, to reject the request for revoking the suspension.



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11. It is seen that the letter dated 02.12.2015, was the subject matter in **WP.No.4493 of 2016**, which was the writ petition filed by one S.Ramu. It is also a case of trap. In paragraph No.4 of the said order, the learned Judge has observed as follows:

“..... It is stated that the grievance of the petitioner seeking release from suspension could not be considered as per the guidelines of Government of Tamil Nadu in letter No.4785/A/N/94-10 P & AR (N) Department, dated 05.01.1996 wherein it is specifically stated that it would be embarrassing to have a public servant on duty who is facing trial in criminal court for grave charges which would not only affect the morale of others in service but also would act as disincentive for the public servant, who are committed to honest conduct in public service.”

12. The learned Judge had gone on to discuss this letter in paragraph No.7 as follows:



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*“7.On the other hand, the learned counsel for the respondent relies on a letter dated 26.04.2016, wherein the P & AR (N) Department, has given instructions to Secretary, after the judgement of the Hon’ble Supreme Court in the case of **Ajay Kumar Choudhary Vs. Union of India (Supra)**. Instructions have been given in the said letter that the suspension of persons facing grave criminal charges should not be mechnacilly revoked.*

13. After extracting the contents of the letter dated 26.04.2016, the learned Judge has held as follows:

*“13.It is to be stated that this letter is in the teeth of the observations made in **Ajay Kumar Choudhary Vs. Union of India (Supra)**. Article 141 of the Constitution of India state that law laid down by the Hon’ble Supreme Court is binding on all Courts. This Court is of the view that the circular cannot override the law laid down by the Hon’ble Supreme Court. Even though the Judgement of the Hon’ble Supreme Court in **Ajay Kumar Choudhary Vs.***



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Union of India (Supra) and State of Tamil Nadu Vs.

Pramod Kumar (Supra), deals with all India Service, but

the ratio will apply to the State service also.”

14. Ultimately, the Writ petition was allowed by stating that the petitioner cannot be kept under suspension for a very long time on the ground that he is facing criminal trial and the respondent was directed to reinstate him in a non sensitive post completely unconnected with the work he had performed.

15. In ***WA.No.1657 of 2019 – The Director General of Police, Chennai Vs. D.Jayakumar***, which was a writ appeal filed challenging the order passed in ***WP.No.39168 of 2016***, the Division Bench was considering the dismissal of applications for revoking suspension on the ground that criminal case was pending. The Division Bench dismissed the writ appeal, confirming the order directing the State to post the petitioner in non sensitive post.



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16. In the Judgement of the Hon'ble Supreme Court in ***Bhupinder Singh Vs. Unitech Ltd. And others***, the Hon'ble Supreme Court was considering the issue of prolonged suspension. The learned Judges have observed as follows in paragraph No.12:

“12. There can hardly be any dispute that on expiry of six months period of suspension, ordinarily a Government official would become entitled to subsistence allowance at the rate of 75% of the pay, save and except when such subsistence allowance has to be denied for some valid reasons. We, thus, proceed on a premise that most of the suspended officers / officials are now receiving 75% pay without having to perform any work. Additionally, considering charge sheets have been issued very recently in October, 2024, we can safely infer that the conclusion of the departmental proceeding will take some reasonable time. Similarly, the criminal proceedings, pending against the suspended officials, are also not likely to reach to a logical conclusion within a short time.”



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17. It is also brought to the notice of the Court that the Government had undertaken a review of the issue of suspension pending enquiry taking into consideration the Judgement in ***WP.Nos.2165 of 2015 and 21628 of 2018***. The Government had made certain modifications to GO.(Ms).40, Personnel and Administrative Reforms (N) Department dated 30.01.1996. One of the modifications that had been introduced was that the power of ordering suspension should be exercised carefully and with restraint.

18. The Government Order further provides that in case a Government servant is suspended in contemplation of disciplinary proceeding, the proceedings should be initiated immediately and finalised within a period of 6 months.

19. The petitioner's suspension, as evident from a reading of the impugned order, is only on account of the letter dated 26.04.2016. This is a fallacy as authorities have proceeded to pass orders without taking into consideration the earlier order passed by this Court in WP.No.4493



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of 2016, wherein this letter has been quashed. Therefore, this writ petition is allowed. The impugned order is quashed and the petitioner shall be appointed to some non sensitive post as the charge sheet is yet to be filed. Consequently, the connected miscellaneous petitions are closed. No costs.

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Index : Yes/No
Internet : Yes/No

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To

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P.T. ASHA, J

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