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W.P.No.21432 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 03.03.2025

Coram:

THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.21432 of 2023

M.Parameshwaran

... Petitioner

Vs.

1.The District Collector,
District Collector Office,
Namakkal.

2.The District Revenue Officer,
District Revenue Office,
Namakkal.

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorari calling for the records of the 2rd respondent pertaining to proceedings in Na.Ka.No.25858-2021 (A2) dated 02.03.2023 and quash the same.

For Petitioner : Mr.K.S.Karthik Raja

For Respondents : Mr.T.M.Rajangam
Government Advocate.



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ORDER

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The petitioner has filed this Writ Petition seeking for an issuance of a Writ of Certiorari calling for the records of the 2rd respondent pertaining to proceedings in NA.KA.No.25858-2021 (A2) dated 02.03.2023 and quash the same.

2. The brief facts of the case, as averred by the petitioner is as follows:-

(i) The petitioner was working as Revenue Inspector in Elachipalayam Firka, Tiruchengode Taluk, Namakkal District. While he was serving in the department, the petitioner was arrested and remanded to judicial custody on 02.11.2021 on the ground that the petitioner had obtained bribe of Rs.5,000/- from one D.Povizhiraja on 01.11.2021 and based on the complaint and investigation, an F.I.R was registered on 01.11.2021 in Crime No. 06/AC/2021. By the proceedings of the 2nd Respondent in Roc.No. 25858/2021/A3 dated 02.11.2021, the petitioner was suspended from service.

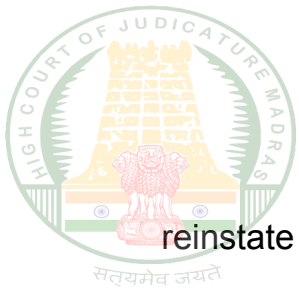
(ii) The petitioner was in Judicial Custody for 30 days and released on bail on 02.12.2021 by the learned Chief Judicial Magistrate, Namakkal and petitioner is under interim suspension since 02.11.2021 till date and the same has not been revoked. The petitioner is the sole bread winner of the family, who has to take



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care of his ill mother who is a senior citizen, his wife and two sons. Due to his suspension, the entire family is suffering under poverty. According to the petitioner, he is not working in any other private concern since then and day to day, the petitioner and his entire family is suffering from immense financial crisis. Therefore, the petitioner has sent a representation dated 02.03.2022 to the 1st respondent requesting to review the Interim suspension order issued by the 2nd Respondent. Further, another representation was sent by the petitioner on 17.03.2022 to the 2nd respondent to review the suspension order, however, there is no response either from the 1st or 2nd respondents. Therefore, the petitioner filed a Writ Petition in W.P.No.25215 of 2022 and this Court on 20.09.2022, directed the respondents to consider the representation made by the petitioner. The 2nd respondent by order dated 02.03.2023 has rejected the petitioner's request for review of suspension. Aggrieved over the same, the petitioner left with no other option has come up with this petition.

3. Per contra, the learned Government Advocate appearing for the respondents submitted that the Writ Petitioner had submitted the representations, dated 02.3.2022 and 17.3.2022, requesting to revoke the suspension and to



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reinstate him into service. As per the directions of this Court, in W.P. No. 25215 of 2022, dated 20.9.2022, a detailed speaking order was passed by the District Revenue Officer, Namakkal, vide proceedings in R.O.C. No. 25858/2021 (A2), dated 2.3.2023. In the instant case, the Writ Petitioner, namely, R.Parameshwaran has been arrested in a criminal case under Prevention of Corruption Act, and the said case is pending in the criminal court. Further, his activities are against the public interest and the Government servants conduct rules. If the petitioner is reinstated into service, it will affect the criminal case and due to the reasons elaborated in the impugned order, his request was rejected. Hence, the impugned order has been passed as per the rules in vogue. Also, the Madurai Bench of this Court has passed an order in the W.P (MD) No. 19617 of 2017, dated: 19.2.2018, and it has been mentioned in the said order, by citing the judgement in W.P. (MD) No. 12590 of 2009, dated: 5 10.2010, as follows:-

"a person charged with a serious offence of corruption, for which, punishment may even extend to 10 years, cannot at any stretch of imagination, be inducted or retained in the department, pending disposal of the trial, as the very conduct, reputation of the persons is questionable" Besides, the effect of retention of such persons in service, pending trial would demoralize the other government servants, frustrate the object of Prevention of Corruption Act Therefore, the action of the respondent, in keeping such government



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servant away from the sphere of his activities, no matter whether the trial is prolonged for a considerable time, cannot clothe any right to seek for retention in service".

4. Further, the detailed reports regarding the review of the suspension cases have been sent by the District Collector, Namakkal, to the Commissionerate of Revenue Administration, vide this office Pdl. No. 418 /2022 (A2), dated 28.9.2022, 12. 12 2022, Pdl. No.418/2023 (A2), dated: 6.2.2023, 12.5.2023, 26.9.2023 and Pdl. No.418/2024 (A2), dated: 12 2 2024, 14.11.2024 and 22.11.2024. In this regard, in GO (Ms) No. 81, Human Resources Management Department, dated: 4.8.2022, it has been ordered as follows:-

"11 (ix) The time limits prescribed above will not be applicable to case of Government servants against whom criminal initiated."

5. The learned Government Advocate appearing for the respondents submits that as per the directions of this Court in W.P. No. 25215 of 2022, dated: 20.9.2022, the representations of the Writ petitioners were duly considered as per the rules and Government's instructions in respect of the employees, who are facing corruption related criminal cases and the impugned order has been passed as per the instructions of the G.O. (Ms) No. 81, Human Resources



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Management Department, dated: 4.8.2022, and therefore sustains in law.

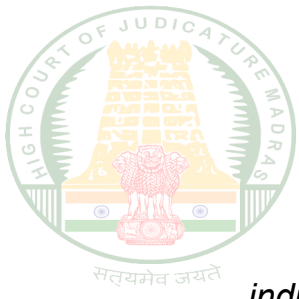
Further, the Writ petitioner has been regularly paid monthly subsistence allowance, thereby pleaded to dismiss the petition as devoid of merits.

6. Heard the learned counsel on either side and perused the documents placed on record.

7. Admittedly, the writ petitioner had submitted representations praying to revoke the suspension and to reinstate him into service. In the Government letter No. 47685/N/94-10, Personnel and Administrative Reforms Department, dated 5.1.1996, it has been instructed as follows:-

“1) If the Officers arrested red handed in the act of demand and / or acceptance of bribe, are released from suspension and allowed to rejoin duty, the Government's objective of maintaining probity in public administration will be belittled.

2) It would be embarrassing to have a public servant on duty, who is facing trial in criminal court or a tribunal /departmental enquiry for grave charges which would not only affect the morale of others in service but also would act as disincentive for the public servants, who are committed to honest conduct in public service.



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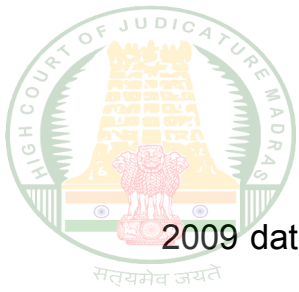
3) *It is considered that it is undesirable to keep on duty the individuals facing corruption charges.”*

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8. Further, in the Government letter (Ms) No 43/N/2015-3, Personnel and Administrative Reforms Department, dated 26.4.2016, it has been instructed as follows:-

5. In view of the above settled policy of the Government for atleast temporally keeping away the corruption charged public servants and/or the public servants charged on their moral-turpitude either on their official and/or private capacity, till they are exonerated of the grave charges, by way of keeping them under suspension from public service so as to encourage cleanliness in the effective delivery of public services to the general public, it is clarified that the instructions issued already in Govt. letter No. 13519/N/2015-1, dated: 23.7.2015 to the effect that the time limit of three months on suspension cases specified therein, are applicable only to the suspension cases arising out of departmental disciplinary inquiries pertaining to non-vigilance and/or any non-criminal cases, in view of the admitted fact that the gravity of the Vigilance/Criminal cases is alarmingly more, than that of the seriousness of the non-vigilance /non-criminal cases in which allegation of corruption is not dealt with.

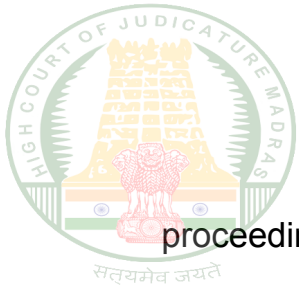
9. That apart, this Court has passed the order in W.P.(MD) No.19617 of 2017 dated 19.02.2018 by following the order passed in W.P.(MD) No.12590 of



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2009 dated 05.10.2010 “a person, charged with serious offence of corruption for which punishment may even extend to 10 years cannot at any stretch of imagination be inducted or retained in the department, pending disposal of the trial as the very conduct, reputation of the persons is questionable. Also, the effect of retention of such persons in service pending trial would demoralize the other government servants, frustrate the object of Prevention of Corruption Act. Therefore, the action of the respondents in keeping such government servant away from the sphere of his activities no matter whether the trial is prolonged for a considerable time, cannot clothe any right to seek for retention in service”. Therefore, the impugned order passed by the 2nd respondent dated 02.03.2023 is as per law.

10. Further, the respondent / Government is not willing to revoke the suspension. It is made clear that the post of Firka Revenue Inspector is a very sensitive post and hence the petitioner cannot be in a sensitive area, when the criminal proceedings are pending against him. Hence the present Writ Petition is to be dismissed as devoid of merits. The learned Judicial Magistrate, Namakkal is directed to continue the trial and complete the proceedings within a period of six months from the date of receipt of copy of this order. It is made clear that the petitioner shall cooperate with the trial



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proceedings to enable the learned Judicial Magistrate, Namakkal to complete the same within a period of six months. As per the result of the proceedings, the petitioner's case shall be considered for re-instatement, if he is eligible.

In the result, the present Writ Petition is dismissed. No costs

03.03.2025

To

- 1.The District Collector,
District Collector Office,
Namakkal.
- 2.The District Revenue Officer,
District Revenue Office,
Namakkal.



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V.BHAVANI SUBBAROYAN, J.

ssd

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