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W.P.No.42846 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2025

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.42846 of 2025

V. Ashok Kumar

... Petitioner

Versus

1. The Deputy Inspector General of Police,
Salem Range, Salem.

2. The Superintendent of Police,
District Police Office, Namakkal District.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, to call for the records relating to the second respondent vide Na.Ka.No.G1/315/22917/2022 dated 22.08.2025 and proceedings No.RC.No.G1/022917/2022, D.O.No.534/2022 dated 30.10.2022 and to quash the same, and direct the respondents to reinstate the petitioner in service with all attendant benefits service in the light of the law laid down by the Hon'ble Apex Court in the case of *Bhupinder Singh Vs. Unitech Limited and others* in C.A.No.10856 of 2016 dated 23.01.2025 and also this Court in W.A.No.1657 of 2019 dated 31.07.2023.

For Petitioner : Mr. S. Vijayakumar, Senior Counsel,
for Mr. K.N. Pandian

For Respondents : Mr. Yogesh Kannadasan,
Special Government Pleader



W.P.No.42846 of 2025

ORDER

This Writ Petition has been filed challenging the order of rejection dated 22.08.2025, whereby the petitioner's request seeking revocation of the suspension order dated 30.10.2022 was rejected.

2. The petitioner was appointed as Police Constable and was subsequently promoted as Head Constable. After completing 10 years of service, he was further promoted as Special Sub Inspector of Police. While he was working as Special Sub Inspector of Police, a criminal case was registered against him under Section 7(a) of the Prevention of Corruption Act, 1988 (as amended in 2018), by the Vigilance and Anti Corruption, Namakkal Detachment, in Crime No.04/AC/2022 dated 29.10.2022, on the file of the Inspector of Police, Paramathi Velur Police Station, Namakkal District.

3. Pursuant to the registration of the First Information of Report, a trap was laid, however, no charge memo has been served on the petitioner, and the investigation in Crime No.04/AC/2022 dated 29.10.2022 is still pending.

4. Therefore, the petitioner submitted a representation dated



W.P.No.42846 of 2025

16.04.2025, seeking revocation of the order of suspension. However, it was rejected by order dated 22.08.2025 on the ground that the First Information Report as against him, is still under investigation.

5. The petitioner has been under suspension for the past three years and is receiving subsistence allowances to the tune of 75% of his salary. In this regard, the Government has issued G.O.Ms.No.81, Human Resources Management (N) Department, dated 04.08.2022, directing the authorities to review the order of suspension periodically, since prolonged suspension cannot be allowed to continue indefinitely.

6. The relevant portion of the said G.O.Ms.No.81 dated 04.08.2022 is extracted hereunder:-

" 11.The Government, after careful examination, reiterates the guidelines issued in the Government Order second read above with slight modification as follows;-

(i) The power of ordering suspension should be exercised carefully and with restraint. Before a suspension order is issued, the authority concerned must be clear in mind that it is



necessary. Prolonged suspension means that Government prays a Government Servant without extracting any work from him. In view of the above position, the suspension should not be restored to unless the concerned authority has considered all the relevant factors and recorded his reasoned conclusion that it is in the public interest to place the Government Servant under suspension.

(ii) Where a Government Servant has been suspended on disciplinary proceedings contemplated, such proceedings should be initiated immediately and finalized normally within a period of six months.

(iii) In cases, where a Government Servant has been suspended and the matter has been referred for investigation to the Director of Vigilance and Anti-Corruption for enquiry, the latter should complete the enquiry and send the report to Government through the Vigilance Commission within one year.

(iv) In respect of cases referred to under items (ii) and (iii) above, the authority who ordered the suspension or the Director of Vigilance and Anti-Corruption, as the case may be, should, before the expiry of the period of three months, report the matter to the Head of the Department/Government,



indicating the progress of the disciplinary action/investigation by the Director of Vigilance and Anti-Corruption, the reasons for non completion of the work and the further time required for completing the disciplinary action/investigation and furnish reasons for continuing the suspension, if continued suspension is felt essential. If the authority which initiated action in the first instance is the Head of the Department, the report has to be sent to Government.

(v) After the initial report referred to in item (iv) above, reports should be sent to Government at the end of every three months, indicating the further progress, so as to enable the Government to review the suspension and the progress of the case, for such action as may be necessary to ensure expeditious disposal.

(vi) The Head of the Department or the Government as the case may be, will examine the cases with reference to the subject matter of the disciplinary action/investigation in progress and the reported stage of process and permit the continued suspension beyond three months/six months. Where the Government itself, have ordered suspension, it will examine the case on the same



lines and pass similar order.

(vii) The disciplinary authorities should ensure that the delay in processing the case is not due to delaying tactics of the Government Servant. They should ensure that all notices issued to the suspended Government Servant should reach him without any loss of time.

(viii) When the disciplinary authority comes to a conclusion suo-motu or after conclusion of the investigation by the Director of Vigilance and Anti-Corruption, the disciplinary authority shall, while initiating action by issue of charges under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules or under Rule 3(b) of the Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules, 1955, as the case may be, examine with reference to the facts established, which form the basis for the charges, whether public interest or the needs for further proceedings will require continued suspension of the Government Servant already under suspension.

(ix) The time limits mentioned above will not be applicable to cases of Government Servants against whom criminal proceedings have been initiated. However, while sanctioning prosecution in such a criminal case, an examination similar to



W.P.No.42846 of 2025

the one mentioned in item (viii) above shall be made by the competent authority.

(x) If, on examination of the case under items (vi), (viii) or (ix) above, continued suspension is considered not necessary, the suspension may be revoked in exercise of the powers conferred under Rule 17(e)(6) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules or under Rule 3(e)(5) of the Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules, 1955, as the case may be.

..... "

7. In the case on hand, admittedly, the petitioner has not been served with any charge memo to initiate departmental proceedings, and the criminal case in Crime No.04/AC/2022, is also pending at the stage of investigation. Therefore, the above said G.O.Ms.No.81 dated 04.08.2022, very much squarely applies to the petitioner. As per the said G.O, the respondents are duty-bound to review the order of suspension and may post the petitioner to any one of non-sensitive post till the completion of criminal case or disciplinary proceedings.



W.P.No.42846 of 2025

8. The Hon'ble Supreme Court has recently held that in Civil Appeal No.10856 of 2016, in case of ***Bhupinder Singh v. Unitech Ltd., & Ors.*** Dated 23.01.025 are as follows:-

"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 proceedings 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."

9. Thus, there is loss to the exchequer by paying subsistence allowance to the tune of 75% on pay without extracting any work from the employee, and it cannot be allowed forever. Therefore, without considering the



W.P.No.42846 of 2025

said facts and circumstances of the case, the request made by the petitioner for revocation of suspension order was rejected.

10. In view of the foregoing discussion, the impugned order of rejection Na.Ka.No.G1/315/22917/2022 dated 22.08.2025 and the suspension order dated 30.10.2025, vide proceedings in RC.No.G1/022917/2022, D.O.No.534/2022 cannot be sustained and are accordingly liable to be set aside.

11. The respondents are directed to place the petitioner in any one of the non-sensitive posts till the completion criminal case or disciplinary proceedings, within a period of four (4) weeks from the date of receipt of a copy of this order.

12. With the above observations and directions, the Writ Petition is allowed. No costs.

06.11.2025

Index : Yes/No
Speaking/Non-Speaking Order
Neutral Case Citation : Yes/No

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W.P.No.42846 of 2025

G.K.ILANTHIRAIYAN. J,

klr

To

1. The Deputy Inspector General of Police,
Salem Range, Salem.
2. The Superintendent of Police,
District Police Office, Namakkal District.

W.P.No.42846 of 2025

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