

W.P(MD)No.13375 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 30.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE BATTU DEVANAND

W.P.(MD)No.13375 of 2025
and W.M.P(MD)Nos.9613 and 9615 of 2025

S.Pandiaraj

...Petitioner

Vs.

The Managing Director,
Tamil Nadu Housing Board,
CMDA Complex,
E & C Market Road,
Koyambedu,
Chennai – 600 107

...Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, in the nature of a writ of Certiorarified Mandamus, to call for records pertaining to the impugned Suspension order in Memo.No. DC4/1501/2024-1 dated 02.02.2024 and consequential impugned rejection order in Proceedings No.DC4/1501/2024 dated 18.09.2024 on the file of the respondent No.1 and quash the same as illegal and consequently directing the first respondent to revoke the suspension of the petitioner dated 02.02.2024 and reinstate the petitioner in the post of Executive Engineer and Administrative Officer u/s Ramanathapuram Housing Unit in the light of the guidelines issued under G.O.Ms.No.81 dated 04.08.2022 and as per 17(e)(6) of the TN Civil Services (Discipline and Appeal) Rules within the time period stipulated by this Court.



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For Petitioner : Mr.R.Ramasamy
For Respondent : Mr.S.Somesh
Standing Counsel

ORDER

This writ petition has been filed challenging the order dated 02.02.2024 and consequential impugned rejection order dated 18.09.2024 on the file of the respondent No.1 and for consequential direction to the first respondent to revoke the suspension of the petitioner dated 02.02.2024 and reinstate the petitioner within the time period stipulated by this Court.

2. Heard the learned counsel for the petitioner and the learned Standing counsel appearing for the respondent Housing Board and perused the materials available on record.

3. The case of the petitioner is that while he was working as Executive Engineer and Administrative Officer at Ramanathapuram Housing Unit, he was kept under suspension by the respondents vide proceedings dated 02.02.2024 pursuant to the registration of a criminal case in Crime No.3 of 2024 dated 31.01.2024 by the DVAC, Ramanad under



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Section 7(a) of Prevention of Corruption Act, 2018. The petitioner submitted a representation to the respondent on 05.07.2024 requesting to revoke the suspension order. As there is no reply from the respondents, the petitioner filed a writ petition in WP(MD)No.19143 of 2024 before this Court. This Court by order dated 14.08.2024 directed the respondent therein to consider the representation of the petitioner dated 05.07.2024 on merits and in accordance with law within a period of eight weeks from the date of receipt of the copy of the order. In compliance of the same, the respondent has examined the representation of the petitioner dated 05.07.2024 and rejected the request of the petitioner vide proceedings No.DC4/1501/2024 dated 18.09.2024. The relevant portion is extracted herein under:

1. In this regard, the Item No.(V) of Chapter (IV) (Suspension) of "HANDBOOK ON SECRETARIAT ADMINISTRATION is extracted herein under:

"...(v)when a charge sheet is filed against a Government servant who was under suspension and it has been taken cognizance of by the court and the matter is under trial, the question of revocation of suspension pending the disposal of the trial by the Court, does not arise.



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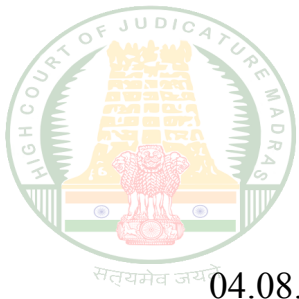
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2. Further, it is stated that the the petitioner has been placed under suspension for the criminal offence committed u/s 7(a) of the Prevention of Corruption (Amendment) Act, 2018 and the case is registered in Crime No.03 of 2024 dated 01.02.2024 as reported by the Deputy Superintendent of Police, Vigilance and Anti-corruption Wing, Ramanathapuram.

In the light of the above facts, it is informed that the request made by the petitioner in his representation dated 05.07.2024 is not feasible of compliance".

4. Pointing out the reasons stated in the rejection order the learned counsel for the petitioner submits that though from the date of suspension of the petitioner i.e 02.02.2024, fourteen(14) months have lapsed so far and the respondents did not issue any charge memo to the petitioner till date. He submits that DVAC police also not filed any charge sheet till date. As such, Item No.(V) of Chapter (IV) (supension of Handbook of Secretariat Administration relied on by the respondent in the impugned order is not applicable to the petitioner's case.

5. The learned counsel further submits that the Government issued G.O.Ms.No.81, Human Resources Management (N) Department, dated



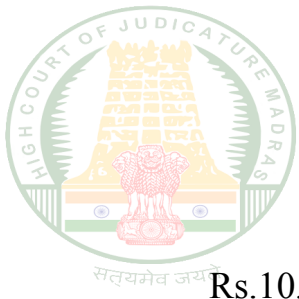
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04.08.2022 instructing the concerned officers to follow certain procedures to review the suspension orders and for reinstatement of the employees under suspension. The said Government Order is applicable to the respondent Board employees also. But the respondent without following the instructions issued by the Government in G.O.Ms.No.81, Human Resources Management (N) Department, dated 04.08.2022 passed the impugned order, which is illegal and unjust and as such, liable to be set aside.

6. The learned counsel for the petitioner contends that the petitioner is eking out from his subsistence allowance due to his children's study and aged parents medical ailments. The petitioner is the sole bread winner of the family and if his suspension is not revoked his entire family may be thrown into street and his children's study would be affected.

7. On the other hand, the learned Standing Counsel appearing for the respondent would submit that the petitioner was placed under suspension in a trap case by the Vigilance and Anti-corruption Officers and he was arrested by them for demanding and accepting illegal gratification of



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Rs.10,000/- from one Thiru.Praveen Kumar for effecting name transfer and issue a sale deed. A criminal case registered against the petitioner is pending. As such, he is not entitled for revocation of the suspension order as per the procedure being followed by the respondent board and accordingly he sought to dismiss the writ petition.

8. Having heard the submissions of the respective counsels and on perusal of the order impugned in this writ petition, it seems that in the present case though a criminal case is registered against the petitioner on 31.01.2024, till date, the concerned investigating agency did not file charge sheet. Though the petitioner was kept under suspension from 02.02.2024, more than 14 months, no charge memo was issued till date by the respondent. As such, Item No.(V) of Chapter (IV) (suspension of Handbook of Secretariat Administration as relied by the respondent while rejecting the request of the petitioner for revocation is not applicable to the petitioner's case. If a charge sheet is filed by the investigating agency against a Government servant, who was under suspension and if it has been taken cognizance by the court, then only the said regulation applies. As in the present case no charge sheet is filed, it is not applicable to the petitioner's



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case. Besides this, it appears that the impugned order is passed by the respondent without following the instructions issued in G.O.Ms.No.81, Human Resources Management (N) Department, dated 04.08.2022. No where in the impugned order it is mentioned whether the instructions issued in the said Government Order have been followed. As and when the Statement Government issued specific instructions to be followed to consider the revocation of the suspension orders of the employees, issuance of the impugned order without following the same by the respondent is unjustified.

9. The respondent has to keep in his mind that he is paying subsistence allowance to the petitioner for the last fourteen(14) months during the suspension period without extracting any work from him. The payment of subsistence allowance being paid to him out of the public exchequer. After few years, if the petitioner is terminated from service, the respondents could not recover the amount paid to the petitioner and definitely, it will cause huge loss to the public exchequer. Instead of that, if the respondent complete the disciplinary proceedings against the petitioner



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within a reasonable time by following due process of law, it will protect the interest of the petitioner as well as the public exchequer.

10. Considering the facts and circumstances of the case, this Court intends to dispose of the writ petition with the consent of both sides with certain directions to the respondent to meet the ends of justice.

11. Accordingly, this writ petition is allowed with the following directions:

(i) The impugned order issued vide Proceedings No.DC4/1501/2024 dated 18.09.2024 is hereby set aside.

(ii) The respondent shall revoke the suspension order issued vide Memo.No.DC4/1501/2024-1 dated 02.02.2024 and post the petitioner in any non-sensitive post within a period of three weeks from the date of receipt of a copy of this order.



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(ii) The respondent shall conclude the disciplinary proceedings initiated against the petitioner within a period of twelve weeks from the date of receipt of a copy of this order.

There shall be no order as to costs.

Consequently, the connected miscellaneous petitions are closed.

30.04.2025

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
CM

To,

The Managing Director,
Tamil Nadu Housing Board,
CMDA Complex,
E & C Market Road,
Koyambedu,
Chennai – 600 107



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BATTU DEVANAND, J.

SN

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