



W.A.(MD)No.1949 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **13.10.2025**

CORAM:

THE HONOURABLE **Dr.JUSTICE ANITA SUMANTH**
AND
THE HONOURABLE **Mr.JUSTICE C.KUMARAPPAN**

W.A.(MD)No.1949 of 2021 &
C.M.P.(MD)No.8715 of 2021

Deputy Inspector General of Police,
Thanjavur Range,
Thanjavur.

... Appellant

/Vs./

M.Balasubramanian

... Respondent

PRAYER:- Writ Appeal - filed under Clause XV of Letters Patent Act, to set aside the order dated 29.06.2021 passed by this Court in W.P. (MD)No.7538 of 2017.

For Appellant : Mr.D.Sadiq Raja
Additional Government Pleader
For Respondent : Mr.S.Nirmal Aditya



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JUDGMENT

(Order of the Court was made by **Dr.ANITA SUMANTH, J.**)

The Deputy Inspector General of Police has filed the present appeal aggrieved by the order passed on 29.06.2016 directing the quashing of order of suspension and reinstatement of the respondent in a non-sensitive post.

2. The respondent had challenged an order of suspension seeking reinstatement into service with all benefits and his plea had been accepted based on the Judgement of Supreme Court in *Ajay Kumar Choudhary vs. Union of India and another* ((2015) 7 SCC 291).

3. The ratio of the above Judgement was to the effect that if memorandum of the charges was not laid within three months of suspension, the currency of any order extending the suspension should not extend beyond that period unless justified by way of a reasoned order.

4. Mr.D.Sadiq Raja, learned Additional Government Pleader appearing for the appellant draws attention to the decisions of the Full



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Benches of this Court in *P.Kannan vs. Commissioner for Municipal Administration and others* (2022 (2) CTC 353) and *Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO) and others vs. A.Srinivasan* (Writ Appeal No.599 of 2020, dated 02.09.2020), arguing that the respondent had been implicated on charges of corruption.

5. Per contra, learned counsel for the respondent emphasises that the respondent has been under suspension for nearly nine years and the ratio of the Judgement in *Ajay Kumar Choudhary's case* would apply on all fours to this matter. He would also rely on a decision of the Division Bench of this Court in *The Director General of Police and another vs. D.Jayakumar* (W.A.No.1657 of 2019, dated 31.07.2023).

6. Having heard both learned counsel, our decision is as under.

7. The facts are not in dispute in that the respondent was recruited as a Sub-Inspector of Police and posted at Veerapuram. He was placed under suspension on 26.03.2016 in terms of the relevant Rules under the Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules, 1955, with effect from 24.03.2016, on the allegation that



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he had indulged in corrupt practices by abuse of his official capacity.

8. The law on the point had been laid down in *Ajay Kumar Choudhary*, where the Supreme Court had stated that an order of suspension should normally should not extend beyond three months and that charge sheet must be served on the officer concerned within that period.

9. The question that then arose was whether that proposition would be an absolute one, requiring strict adherence to the 90 days rule. If held to be so, then, in all matters where charge sheets had not been served on the officer within 90 days, the order of suspension would be liable to be set aside.

10. A Full Bench of this Court in *P.Kannan's case* was concerned with two conflicting Judgements delivered by Division Benches relating to orders of suspension i.e., *Director General of Police and another vs. T.Kamarajan* (W.A.No.3957 of 2019, dated 19.11.2019) and *Chairman cum Managing Director, TANGEDCO and others vs. R.Balaji*, (W.A.No.68 of 2021, dated 27.08.2021).

11. The issue considered by the Full bench was specifically in



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the context of the applicability of the judgement in *Ajay Kumar Choudhary* in service matters, and the extent to which the ratio of the aforesaid judgement would be held to be binding. The issue was answered in the following terms:

34. For the foregoing reasons, the reference is answered by holding that:

(i) The judgment of the Apex Court in the case of Ajay Kumar Choudhary, supra, does not lay down absolute proposition of law that an order of suspension cannot be continued beyond the period of three months if the memorandum of charges/charge-sheet has not been served within three months, or if memorandum of charges/charge-sheet is served without reasoned order of extension;

(ii) The judgment in R.Balaji, supra, has no reference to the earlier judgments of co-equal strength and is thereby rendered per incuriam;

(iii) The issue of challenge to the order of suspension should be analyzed on the facts of each case, considering the gravity of the charges and the rules applicable; and

(iv) Revocation of suspension with a direction to the employer to post the delinquent in a non-sensitive post cannot be endorsed or directed as a matter of course. It has to be based on the facts of each case and after noticing the reason for the delay in serving the memorandum of charges/charge-sheet.

The Registry is directed to place the papers before the roster Bench for disposal of the writ petitions.



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12. A reading of the aforesaid would indicate that the Judgement in *Ajay Kumar Choudhary* would have to be understood in the context of different factual matrices before the Court. There are instances where the Authorities would be in a position to justify longer periods of suspension, particularly, for instance, if the matter involves a reference to the Directorate of Vigilance and Anti-Corruption as in the present case. The order under appeal hence merits intervention. The Bench has granted an order of interim stay when the matter had come up for admission on 21.10.2021 and the interests of the State hence stood protected.

13. We need not, in light of the decision of the Full Bench, make reference to *A.Srinivasan's* case, and as far as the decision relied on by the respondent, *D.Jayakumar's* case, that decision has not taken note of the Full Bench decision and is hence, of no use to the respondent.

14. Having held the position of law in favour of the Appellant state, we are not in agreement that any investigation can or should take nine years to conclude. In G.O.Ms.No.81, Human Resources Management (N) Department, dated 04.08.2022, specifically in the context of suspension pending enquiry into grave charges, particularly,



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vigilance enquiry, the State has directed that enquiry be completed and report sent to the Government through the Vigilance Commission within one year.

15. The relevant part of the above Government Order is extracted hereunder:-

ABSTRACT

Disciplinary cases - Review of suspension pending enquiry into grave charges - Time limit for finalization of disciplinary proceedings - Compendium of instructions - issued.

Human Resources Management (N) Department

G.O.(Ms)No.81 Dated: 04.08.2022

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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 pays a Government Servant without extracting any work from him. In view of the above position, the suspension should not be resorted to unless the concerned authority has considered all the relevant factors and recorded his reasoned conclusion that it is in



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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"

16. In light of the aforesaid, the learned Judge before whom enquiry is pending in this matter (earlier the Chief Judicial Magistrate, Kumbakonam, now transferred to Principal District Judge, Thanjavur) will ensure that proceedings are completed within a period of six months from date of this order.

17. This writ appeal stands disposed in light of the aforesaid order. No costs. Consequently, connected Miscellaneous Petition is closed.

[A.S.M.J.] & [C.K.J.]
13.10.2025

NCC :Yes/No
Index :Yes/No



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To

1.The Principal District Judge,
Thanjavur.



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Dr.ANITA SUMANTH, J.
AND
C.KUMARAPPAN, J.

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Order made in
W.A.(MD)No.1949 of 2021

Dated:
13.10.2025