

W.A.(MD)No.2400 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2025

CORAM:

**THE HONOURABLE MRS.JUSTICE J. NISHA BANU
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.A(MD)No.2400 of 2024
and
C.M.P.(MD)Nos.16553 and 16555 of 2024**

1.The District Collector,
Karur, Karur District.

2.The District Revenue Officer,
Karur, Karur District.

... Appellants

Vs.

M.Balasundaram (Under Suspension),
Special Tahsildar,
Arasu Cable TV Corporation,
Taluk Office,
Karur, Karur District.

... Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent against the order of this Court in W.P.(MD)No.16925 of 2024, dated 25.07.2024.

For Appellants	:Mr.S.S.Madhavan Additional Government Pleader
For Respondent	:Mr.G.Prabhu Rajadurai for M/s.Ajmal Associates



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JUDGMENT

(Judgment of the Court was delivered by **S.SRIMATHY, J.**)

The writ appeal is filed against the order dated 25.07.2024 passed in W.P.(MD)No.16925 of 2024.

2. The writ petition was filed for issuance of a Writ of Certiorarified Mandamus to quash the suspension order, dated 08.07.2019 and consequential order dated 24.06.2024 and to direct the 1st respondent to reinstate the petitioner in service within the specific time.

3. The brief facts are that while the petitioner was working as a Special Tahsildar was placed under suspension on 08.07.2019 for certain allegations. Since the petitioner was placed under suspension for a very long time without revoking the suspension, the petitioner had filed W.P.(MD)No.5773 of 2024 wherein a direction was given by this Court on 11.03.2024 to consider the petitioner's representation in the light of G.O.Ms.81 dated 04.08.2022 and the relevant portion of the order is extracted hereunder:



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“7. Without going into the merits of this case, this Court direct the 1st respondent to consider the petitioner's representation, dated 01.11.2023 and 09.01.2024 and pass appropriate orders in accordance with law in the light of G.O.Ms.No.81, Human Resource Management (N) Department dated 04.08.2022 within a period of eight (8) weeks from the date of receipt of a copy of this order.”

In compliance of the said order the petitioner's representation was considered and vide dated 24.06.2024 the petitioner's request for revocation of suspension was rejected. Challenging the same the writ petition was filed.

4. The Writ Court had recorded the reasoning stated by the respondents / appellants in the order dated 24.06.2024 while rejecting to revoke the suspension. The appellants have stated in their order dated 24.06.2024 that the petitioner has been charged for having received Rs.5000/- as bribe for giving patta in respect of vacant site and it is serious charge. The appellants have also stated that the case on hand is distinguishable and has come to the conclusion by that the G.O.Ms.No.81, dated 04.08.2022 and the judgment of the Hon'ble Supreme Court made in ***Ajay Kumar Choudhary v. Union of India through its Secretary and another*** in Civil Appeal No.1912 of 2015, dated 16.02.2015 are not applicable. Further reference was also made to the order 15.03.2022 passed by



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the Hon'ble Full Bench in W.P.Nos.2165 of 2015 and 21628 of 2018. Further the appellants had stated the issue can be considered case-to-case basis, suspension cannot be revoked as a matter of right and in the present case the charges are serious in nature and involves allegation of corruption, hence refused to revoke the suspension.

5. The Writ Court after considering the reasons stated in the order dated 24.06.2024 had held that the even though in the allegations of corruption, the amount involved does not make a difference but the delay matters a lot. The petitioner was kept under suspension from 08.07.2019 without completing the disciplinary proceedings and a criminal case is also pending. The pendency of criminal case cannot have any relevancy to the departmental proceedings, the respondent department could have continued the disciplinary proceedings and completed the same in the interest of justice. Further the petitioner is being paid 75% of the suspension allowance without extracting any work. Since there is inordinate delay, the first respondent ought to have exercised its discretion and revoked the suspension and posted in any non-sensitive post. hence the Writ Court had allowed the writ petition and directed the appellants to revoke the suspension and post the petitioner in any non-sensitive post. Aggrieved over the same, the Government / respondents preferred the present writ appeal.



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6. Heard Mr.S.S.Madhavan, Learned Additional Government Pleader appearing for the appellants, Mr.G.Prabhu Rajadurai, Learned Counsel appearing for the respondent and perused the records.

7. The primary contention of the appellants is that the Writ Court had not granted any opportunity to the appellants to file counter and the writ was allowed in the admission stage itself. Since in the writ appeal this Court had heard the appellant, the said ground is no longer available.

8. The next contention of the appellant is that the charge against the petitioner is serious in nature, hence the suspension cannot be revoked. Even though it is serious, then also the G.O.Ms.No.81 direct the appellants to revoke the suspension if it is more than one year. The relevant portion is extracted hereunder:

11. (i), (ii) ...

(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 the government through Vigilance Commission within one year.

(iv), (v), (vi), (vii), (viii), (ix) (x) ...



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(xi) *In cases where the charge in the criminal case involves complicated questions of law and fact and the disciplinary authority is not in a position to finalize the departmental disciplinary proceeding and if the criminal case is based on the vigilance report and is pending before the court of law for which no reasons are explained explicitly, the authority competent may take a decision by taking up review of suspension and post the Government Servant in a non-sensitive place in consultation with the appropriate investigating authority / Vigilance Commission on case to case basis in view of the reason that prolonged suspension and paying subsistence allowance for a long period without extracting work is not at all acceptable. Such revocation of suspension can be made based on the facts of each case and after noticing the reason for the delay in serving the memorandum of charges / charge sheet. The decision of the Hon'ble High Court of Madras in P. Kannan case, given in para 5 above, shall be taken into account.*

12. *The Government also reiterate the time limit prescribed in the government letter first read above for processing the disciplinary proceedings so as to ensure that there is no unwarranted delay in finalizing them as follows:*

(i)	<i>To complete the investigation by Directorate of Vigilance and Anti-Corruption and to send a report to Government through Vigilance Commission</i>	<i>One year</i>
(ii)	<i>To complete the enquiry by the Tribunal and to send its findings to the Department of Secretariat.</i>	<i>One year</i>
(iii)	<i>To pass final orders by the Government / Heads of Department on receipt of the report of the Tribunal</i>	<i>Four months</i>



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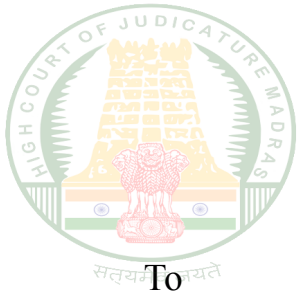
9. Of course, the above clauses are applicable, but the same ought to applied case to case basis and the appellants have discretionary power. If the said power is not exercised, then the Courts can interfere. In the present case the suspension was on 08.07.2019 and nearly six years the petitioner is under suspension. Further the petitioner is receiving 75% of salary without doing any work. The stage of the charge memo dated 21.08.2020 is pending and the criminal case in C.C.No.4 of 2021 is pending. In such circumstances, the petitioner is entitled to considered for revocation of suspension. The appellants have failed to exercise their discretionary power. The Writ Court is right in allowing the writ petition and the same needs no interference.

10. Therefore, the Court is not inclined to interfere with the order passed by the Writ Court. Hence, the writ appeal is dismissed, confirming the order passed by the Writ Court. No costs. Consequently, connected miscellaneous petitions are closed.

[J.N.B., J.] [S.S.Y., J.]
08.04.2025

Index : Yes / No

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