



WEB COPY

WP No. 29509 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-03-2026

CORAM

THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

**WP No. 29509 of 2023
and WMP.Nos.29130 & 29132 of 2023**

S.Sekar
S/o. P.Subbarayan,
No. 6-1, NGGO Colony,
Puthumariamman Koil Post,
Ponnammapet, Salem - 636003.

..Petitioner(s)

Vs

1. The State Of Tamil Nadu,
Rep. By Its Commissioner For Welfare Of The
Differently Abled,
State Commissionerate For Welfare Of The
Differently Abled,
No. 5, Kamarajar Salai,
Lady Wellington College Campus,
Chennai - 600 005.
2. The District Differently Abled Welfare Officer
In Charge,
Collectorate, Nammakal District.

..Respondent(s)

Writ Petition filed under Article 226 of the Constitution of India, seeking to issue a Writ of Certiorarified Mandamus, calling for the records in Na.Ka.No.003504/NIR-5/2021 dated 16.05.2023 (Impugned Order-I) and SE.MU.NA.KA.NO.003504/NIR-5/2021, dated 03.05.2021 (Impugned Order-II), on the file of the 1st respondent, and quash the same as illegal, incompetent, without jurisdiction and direct the respondents to reinstate the petitioner with all consequential service as well as monetary benefits.



For Petitioner(s):

Mr.B.Singaravelan,
Senior Counsel for
Mr.I.Saddam Hussain

For Respondent(s):

Mr.V.Jeevagiridharan
Additional Government Pleader

ORDER

The present Writ Petition is filed challenging the order dated 16.05.2023, whereby petitioner's request for revocation of the suspension order dated 03.05.2021 was rejected. The impugned order has been passed pursuant to a direction issued by this Court in an earlier Writ Petition filed in W.P.No.6593 of 2023, wherein in a challenge to the suspension order, and a consequential direction to reinstate the petitioner, this Court directed the first respondent herein to consider the petitioner's representation seeking revocation of the suspension order in accordance with the instructions issued by the Government in G.O.Ms.No.81, Human Resources Management (N) Department, dated 04.08.2022.

2. The above direction came to be passed keeping in view the judgment of the Supreme Court in the case of *Ajay Kumar Choudhary vs. Union of India*, reported in [(2015) 7 SCC 291], wherein the Hon'ble Supreme Court had laid down certain guidelines with regard to prolonged suspension.



3. The impugned order has been passed pursuant to the above directions, rejecting the petitioner's request for revocation of the suspension on the premise that the present case involves a trap and thus, no interference is warranted with the order of suspension.

4. Learned Senior Counsel for petitioner would submit that subsequent to the above orders, the Division Bench of this Court in W.A.No.1657 of 2019 dated 31.07.2023 and a Single Judge of this Court in W.P.No.19150 of 2022 dated 01.08.2023, had observed that it is undesirable to permit wastage of the resources of the State and that suspension for an indefinite period is counter-productive and it was further suggested that in cases of prolonged suspension, respondent authorities may consider posting the delinquent officer to a non-sensitive post, which would again depend on the facts of each case. The relevant portions are extracted hereunder:

“8.If these kind of cases where without initiating any disciplinary proceedings merely on the basis of the pendency of the criminal cases if the Government employee is suspended, such a suspension cannot be extended endlessly without any reason.

9.In this context, every quarter of the year i.e., at the end of third month, the employer has to review the necessity for extending the suspension.



10. *Here in the case on hand, the consistent stand taken by the appellant Department is that since the criminal case was pending, at this moment it may not be conducive for the employer to revoke the suspension.*

11. *The said reason cannot be stated endlessly for several years as the criminal case was pending trial before the concerned Court.*

12. *Moreover, the respondent employee is at the verge of his superannuation and within a short period since he is going to superannuate, before which some decision has to be taken by the appellants as to whether disciplinary action separately has to be taken against him, for which a charge has to be framed, otherwise on superannuation whether the services of the employee has to be retained for the purpose of taking disciplinary action in future depending upon the decision to be made by the Trial Court in the pending criminal case have to be decided, for the said purpose the reinstatement by revoking the suspension as directed by the learned Judge become inevitable.*

13. *In view of the aforestated, we feel that the order passed by the learned Judge which is impugned herein cannot be said to be an erroneous one and therefore, the same has to be sustained.”*



“5.It is not in dispute that the petitioner was placed under suspension from the year 2018 onwards due to criminal case initiated by the Vigilance and Anti Corruption, Namakkal. The Clauses (ix) and (xi) of G.O.(Ms)No.81 of Human Resources Management (N) Department, dated 04.08.2022 read as follows:-

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

(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 non-sensitive post 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."

6. The above extract makes very clear that it is for the disciplinary It is also authority to take a decision by taking up review of suspension and post the Government Servant in a non-sensitive post in consultation with the appropriate investigating authority/Vigilance Commission. Indicated that paying the Subsistence Allowance for a long period without extracting work is not at all acceptable. Despite the same, now the rejection order, dated 14.06.2022 has been passed.

7.It is also relevant to note that in a similar case [The Additional XVII) Department, Chief Secretary to Government, Home (Police 600 009 Versus M.Balasubramanian, dated Secretariat, Chennai 30.06.2022 in W.A.No. 1366 of 2022], the Hon'ble Division Bench of this Court held that the resources of the State cannot be permitted to be wasted with such helplessness, therefore, the discretion exercised by learned Single Judge that, there is no point in continuing the writ petitioner under suspension



indefinitely and may be posted on any non-sensitive post, in the facts of this case, cannot be said to be an error, which may call for any interference. Admittedly, the petitioner, who was arrested on the allegation of receiving bribe of Rs.3,200/-, has been prosecuted for offence under the Prevention of Corruption Act, 1988 and now, final report has also been filed before the learned Special Judge/Chief Judicial Magistrate, Namakkal. It is common that the criminal case, particularly, registered under the Prevention of Corruption Act, 1988 will take long time for disposal.

8. In such view of the matter, having suspended the petitioner and paying the Subsistence Allowance for almost five years without extracting work, in fact, is causing loss to the Government exchequer. Therefore, the respondent ought to have taken into consideration that if the petitioner is posted any non-sensitive post and extracted work, the resources of the Government may not be wasted.

9. Hence, the impugned order in Letter No.A3/6415/2018, dated 14.06.2022 rejecting the review of petitioner's suspension stands quashed. The respondent shall consider and review the suspension by posting the petitioner in any of the non-sensitive post even outside the jurisdiction. Such exercise shall be undertaken, within a period of two months, from the date of receipt of a copy of this order."



5. Following the above decisions, this Court is inclined to permit the petitioner to file a fresh representation seeking posting in a non-sensitive post. If any such request is made, the same shall be considered by the respondent concerned, keeping in view the law laid down by this Court in the decisions referred to supra, within a period of four (4) weeks from the date of receipt of a copy of this order. It is made clear that petitioner's representation seeking posting in a non-sensitive post shall be considered uninfluenced by the order of suspension dated 03.05.2021 and rejecting of request for its revocation dated 16.05.2023. On consideration of representation if respondents find that petitioner can be accommodated in a non-sensitive post, the order of suspension shall be revoked and petitioner shall be posted in such non-sensitive post.

6. In view of the above direction, this Writ Petition stands disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

25-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To

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State Commissionerate For Welfare Of The Differently Abled,
No. 5, Kamarajar Salai,
Lady Wellington College Campus,
Chennai - 600 005.
2. The District Differently Abled Welfare Officer
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