
(2012) 02 MAD CK 0221

Madras High Court

Case No: Writ Petition No. 23637 of 2011 and M.P. No. 1 of 2011

U. Rangarajan

APPELLANT

Vs

The Commissioner,
Karamadi Panchayat
Union

RESPONDENT

Date of Decision: Feb. 3, 2012

Acts Referred:

- Constitution of India, 1950 - Article 14, 16

Citation: (2012) 02 MAD CK 0221

Hon'ble Judges: Vinod K. Sharma, J

Bench: Single Bench

Advocate: V. Suthakar, for the Appellant; R. Ravichandran, Addl. Govt. Pleader, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Honourable Mr. Justice Vinod K. Sharma

1. Petitioner has approached this court with a prayer for issuance of writ in the nature of certiorari, to quash the order of suspension dated 13.09.2011, with all consequential benefits. The petitioner is employed as jeep driver at Karamadi Panchayat Union, and before joining the service which Karamadi Panchayat Union he had served the Indian Army and had also worked as security guard at Karamadai Telephone Exchange.

2. The petitioner has a land dispute with his brother on account of which the criminal case was registered against him on the basis of complaint filed by his brother.

3. The petitioner was arrested in a criminal case on 10.09.2011 and remained in custody till 14.09.2011, there after he was released on bail.

4. According to the service rules, 48 hours of detention results in automatic suspension pending the criminal proceedings. The order of suspension was only confirmed vide impugned order of the respondent.
5. The petitioner after being released on bail approached the respondent for revoking the order of suspension, on the ground that the offences alleged against the petitioner has no relevance to performance of his duty and further that trial was likely to take lot of time.
6. The respondent has failed to take any action on the representation of the petitioner. The petitioner has challenged the impugned order of suspension on the ground that the order is arbitrary and discriminatory therefore violative of Article 14 & 16 of the Constitution of India.
7. It is also the submission of the petitioner that allegation in the FIR are totally baseless therefore there is no justification to continue with the suspension of the petitioner.
8. The petitioner also challenges the jurisdiction of the respondent to suspend the petitioner on the ground that the criminal case was not related to his official duty as driver.
9. On consideration, I find that the grounds raised by the petitioner do not justify interference with order of suspension. According to the service rules, the delinquent who is in custody for more than 48 hours, is deemed to be suspended from service on account of involvement in criminal case.
10. There being no difference whether the involvement in crime is on account of performance of official duties or for any other reason.
11. The service rules gives the jurisdiction to the Competent Authority to take decision, as to whether in the given facts and circumstances the continuation of suspension will be justified or it deserves to revoke.
12. In this case, once the criminal case against the petitioner was not connected with the performance of duties but on account of family dispute, it is obligatory on the part of the respondent, to take a final decision on the representation filed by the petitioner for revoking the suspension order, after release on bail. The respondent has failed to exercise its legal obligation under the service rules.
13. Consequently, while rejecting the challenge of suspension order, this writ petition is disposed of, by directing the respondent to take decision on the representation filed by the petitioner for revoking the suspension pending criminal trial.
14. This order is passed in view of the fact, that even in case of conviction service of the petitioner can be only dispensed with by recording the finding of involvement of moral turpitude, leading to conviction and not otherwise.

15. The decision be taken within one month of receipt of certified copy of this order.

16. No costs. Connected miscellaneous petition is closed.