



WEB COPY



W.A.No.1657 of 2019

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**Dated: 31.07.2023**

**CORAM**

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR  
AND  
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

**W.A.No.1657 of 2019  
and C.M.P.No.11264 of 2019**

1.The Director General of Police,  
Tamil Nadu,  
Mylapore,  
Chennai – 600 004.

2.The Joint Commissioner of Police,  
North Zone, Chennai City Police,  
Chennai – 600 008.

... Appellants

Vs

D.Jayakumar

... Respondent

**PRAYER:** Writ Appeal filed under Clause 15 of the Letter Patent Act to set aside the order of the learned Judge made in W.P.No.39168 of 2016 dated 01.12.2016

For Appellants : Mr.Vadivelu Deenadayalan  
Additional Government Pleader

For Respondent : No appearance



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## **JUDGMENT**

**WEB COPY** (Judgment of the Court was made by R.SURESH KUMAR.,J.)

This writ appeal has been directed against the order passed by the Writ Court dated 01.12.2016 made in W.P.No.39168 of 2016.

2.The respondent herein was the writ petitioner who was working in the Police Department and he was allegedly caught red-handed for the alleged receipt of bribe by the Vigilance and Anti Corruption Department and pursuant to which, criminal case is pending. Therefore, it become necessitated for the appellant employer to suspend him. Therefore, on 07.02.2011 the respondent was suspended. As against the suspension order, he preferred an appeal to the Appellate Authority and who rejected the said appeal on 27.03.2014. Against which, the respondent also filed further appeal to the office of the Joint Commissioner of Police, who by endorsement order dated 22.06.2016, has rejected the request of the first respondent i.e., Special Sub-Inspector of Police to revoke the suspension.

3.The reason stated by the appellants in all these orders for not



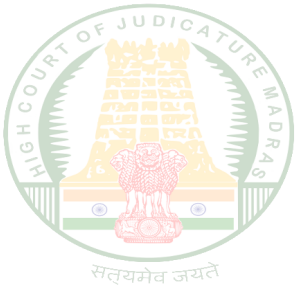
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revoking the suspension is because of the criminal case that was pending before the concerned Court for trial and once the case is completed, accordingly a decision will be taken. Till such time, it may not be conducive for the employer to revoke the suspension and to reinstate the respondent.

4. Aggrieved over these orders, the respondent herein filed the aforesaid writ petition which was ordered by the learned Judge by order dated 01.12.2016, where the learned Judge after having set aside the said orders directed the State to post the writ petitioner in any of the non-sensitive post where the Department feels that the writ petitioner can be accommodated within a period of four weeks.

5. As against the said order, this writ appeal has been filed.

6. Heard Mr. Vadivelu Deenadayalan, learned Additional Government Pleader appearing for the appellants and Mr. M. Ravi, learned counsel has already taken notice for the respondent.



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**WEB COPY** 7.Insofar as the direction given by the learned Judge after setting aside the suspension order is only to accommodate him in a non-sensitive post.

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.



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**WEB COPY** 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.

12.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.



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**WEB COPY** 13.In the result, this writ appeal fails and accordingly, it is dismissed.

Therefore, the order of the learned Judge shall be complied with by the appellants within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

**(R.S.K.,J.) (K.B., J.)**  
**31.07.2023**

Index: Yes/No  
Speaking Order/Non Speaking Order  
Neutral Citation: Yes/No  
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**R.SURESH KUMAR., J.**  
**and**  
**K.KUMARESH BABU.,J.**

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