

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.07.2015

C O R A M

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.A. No.862 of 2015
and
M.P. No.1 of 2015

S. Ramu

... Appellant

Vs

1. The Director of Municipal Administration,
Chepauk, Chennai 600 005.
2. The Commissioner,
Avadi Municipality,
Avadi, Chennai 600 054.

... Respondents

Prayer:-Appeal filed under Clause 15 of Letters Patent against the order dated 09.06.2015 made in W.P.No.16158 of 2015 praying for writ of Certiorified Mandamus to call for the records of the 2nd Respondent in Na.Ka.No.8643/2014/C1 dated 28.08.2014 and the consequential Order of the 2nd Respondent herein in Na.Ka.No.8643/2014/C1 dated 23.04.2015 quash the same and consequently direct the respondents to post the petitioner in any non-sensitive post forthwith.

For appellant : Mrs. Dakshayani Reddy

For respondents : Mr. P.S.Sivashanmugasundaram
Special Government Pleader - R1
Mr. P. Srinivas - R2

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J U D G M E N T

(Judgment of the Court was made by SATISH K. AGNIHOTRI, J.,)

The instant appeal arises from the order dated 09.06.2015 passed in W.P. No. 16158 of 2015 wherein, the learned Single Judge while dismissing the writ petition, had directed the authorities to complete the investigation and file a report within a period of four months. It was further observed that if no such final report is filed, the writ petitioner/appellant is at liberty to approach the Court, if so advised.

2. Learned counsel for the writ petitioner/appellant submits that the writ petitioner /appellant was placed under suspension by order dated 20.08.2014. Thereafter, no steps were initiated to complete the enquiry as no charge sheet was laid. The writ petitioner/appellant has been under suspension without rhyme or reason for such a long time.

3. Relying on the decision of the Supreme Court in Ajay Kumar Choudhary - Vs.- Union of India and another¹, the learned counsel for the writ petitioner/appellant would further submit that the Supreme Court had deprecated the practice of keeping an employee under suspension for a long time and it was also observed that while considering the extension of suspension period, the employer should keep in mind as to whether the person can be posted to some other place where there is no apprehension that the employee would interfere with or obstruct the investigation. Thus, a direction may be issued to the employer to consider the case of the writ petitioner/appellant for revocation of suspension and posting him to some other place.

4. The learned single Judge, examining the facts from all angles, came to the conclusion that the ratio laid down in Ajay Kuamar Choudhary, (supra), is not applicable to the facts of the case.

5. The alleged charge levelled against the writ petitioner/appellant is in respect of taking bribe and that, by itself, is a serious charge. The investigation is being conducted by the Inspector, Vigilance and Anti-corruption Department, Special City Unit-III, Nandanam, Chennai. In the facts of the case and on the basis of report received from the said Inspector, the writ petitioner/appellant is placed under suspension for about 11 months.

¹ (2015, SCC online SC 127)

The writ petitioner/ appellant is granted liberty to make a fresh representation to the second respondent to re-consider either revocation of suspension or placing him at any other place.

6. In view of the observation made by the Supreme Court in Ajaykumar Choudhary (supra,) we make it clear that if a representation is made by the writ petitioner/appellant, the same shall be considered and disposed of by the second respondent in consultation with the first respondent, as per law and on its own merit, without being influenced by the observation made, if any, by the learned single Judge as well as by this Bench.

7. This writ appeal is disposed of accordingly. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Director of Municipal Administration,
Chepauk, Chennai 600 005.
2. The Commissioner,
Avadi Municipality,
Avadi, Chennai 600 054.

+1cc to Mrs.Dakshayani Reddy, Advocate, S.R.No.36838
+1cc to Mr.P.Srinivas, Advocate, S.R.No.36788
+1cc to the Government Pleader, S.R.No.37617

W.A. No.862 of 2015

KU(CO)
CA(29/07/2015)

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