

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.06.2015

CORAM

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

W.P.No.16158 OF 2015

&

M.P.Nos. 1 & 2 of 2015

S.Ramu

[PETITIONER]

Vs

1 The Director of Municipal Administration
Chepauk, Chennai-5.

2 The Commissioner
Avadi Municipality,
Avadi Chennai-54

[RESPONDENTS]

Writ petition is filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus to call for the records of the 2nd respondent in Na.Ka.No.8643/2014/C1 dated 28.8.2014 and the consequential order of the 2nd respondent herein in Na.Ka.No.8643/ 2014/C1 dated 23.4.2015 quash the same and consequentially direct the respondents to post the petitioner in any non-sensitive post forthwith.

For Petitioner : Mrs.Dakshayani Reddy

For Respondents : Mr.V.Jayaprakash Narayanan
Special Government Pleader

O R D E R

With the consent of the learned counsel appearing on either side, the Writ Petition is taken up for final disposal at the admission stage itself.

2.The petitioner has come forward with this Writ Petition for issuance of a writ of certiorarified mandamus to quash the orders passed by the second respondent dated 28.8.2014 and 23.4.2015 and to direct the respondents to post him in any non-sensitive post forthwith.

3.The learned counsel for the petitioner submitted that the petitioner is working as Junior Assistant in the second respondent

Municipality. A case was registered against him in Crime No. 08 of 2014 for the offence under section 7 of the Prevention of Corruption Act, on the file of the Inspector of Police, Vigilance and Anti Corruption, City Special Unit III, Nandanam, Chennai on 27.8.2014. Based on the same, the petitioner was placed under suspension by the impugned order dated 28.8.2014. The petitioner has now come forward with the present Writ Petition, for quashing the suspension order on the ground that though the investigating officer completed the investigation within three months, no final report has been filed and therefore, suspension is liable to be quashed. In support of the said contention, the learned counsel placed on the Judgment of the Hon'ble Supreme Court in the case of AJAY KUMAR COUDHARY v. UNION OF INDIA THROUGH ITS SECRETARY & ANR [2015 SCC On Line SC 127].

4.Placing reliance on the aforesaid decision, the learned counsel for the petitioner has strenuously contended that the respondents cannot keep the petitioner under suspension, if no charge sheet is filed in the criminal case within a period of three months.

5.I have carefully perused the Judgement cited supra and I find no such proposition is laid down as submitted by the learned counsel for the petitioner. In the said case, the Hon'ble Supreme Court has laid down that in the case of departmental proceedings, if an employee is placed under suspension, and no charge sheet is filed within a period of ninety days, then the suspension shall be interfered with. For laying down ninety days period, the Hon'ble Apex Court placed reliance on the fact that even for a heinous crime, a statutory time is provided in the Criminal Procedure Code for a statutory bail, if no charge sheet is laid within a period of ninety days. But, the Hon'ble Supreme Court has not laid down that in a criminal case that too cases involving corruption cases, the suspension of employee could be revoked, if no charge sheet is filed within a period of three months. If the employee who is facing the criminal case is placed under custody, he could seek bail if no charge sheet is filed within a period of three months, but, he could not seek to quash the suspension order by placing reliance on the Judgement in the criminal case.

6.However, I am of the view that the Inspector of Police, Vigilance and Anti Corruption, City Special Unit-III, Chennai, cannot indefinitely probe the matter and take years together to file the final report.

7.Accordingly, though the Inspector of Police, Vigilance and Anti Corruption, City Special Unit III, Nandanam, Chennai, is not a party to the proceedings, the said authority is directed to complete the investigation and file a report, within a period of four months. If no such final report is filed, the petitioner is at liberty to approach this Court, if he is so advised.

The Writ Petition is disposed of accordingly. No costs.
Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

rpa

To

- 1 The Director of Municipal Administration
Chepauk, Chennai-5.
- 2 The Commissioner
Avadi Municipality,
Avadi Chennai-54
- 3 The Inspector of Police,
Vigilance and Anti Corruption,
City Unit II, Nandanam, Chennai

1 CC to the Government Pleader, SR.No. 28090

W.P.No.16158 of 2015

SVI (CO)
PSI (17.06.2015)

सत्यमेव जयते

WEB COPY