

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2016

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.Nos.14599 and 14600 of 2016

S.Ganesan .. Petitioner in WP.No.14599/2016
R.Samuel .. Petitioner in WP.No.14600/2016

Vs

The Commissioner (Zonal Officer-II),
Corporation of Chennai,
Chennai - 600 003. .. Respondent in both WPs

Prayer in W.P.No.14599/2016 : Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records on the file of the respondent in by proceedings Z.O.II/CNO/F3/574/2010, dated 21.01.2010, to quash the same and to reinstate the petitioner in service with consequential benefits.

Prayer in W.P.No.14600/2016 : Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records on the file of the respondent in by proceedings G.D.C.No.E6/35351/2009, dated 09.10.2009, to quash the same and to reinstate the petitioner in service.

In Both Writ Petitions:

For petitioners : Mr.M.Ravi
For Respondent : Mr.G.Anantharangan

COMMON ORDER

By way of filing these writ petitions, the petitioners seek to quash the order of suspension vide proceedings dated 21.01.2010 and 09.10.2009 respectively.

2. Mr.G.Anantharangam, learned counsel, takes notice for the respondent Corporation.

3. Since the issues involved in both the writ

petitions are one and the same, they are disposed of by this common order. For better appreciation, facts involved in W.P.No.14599 of 2016 are stated below:

The petitioner was initially appointed as Sanitary Worker in the respondent Corporation on 01.02.1989 and thereafter, he was promoted as Conservancy Inspector in the year 2008. Subsequently, based on a complaint, he was implicated in a criminal case by the Vigilance and Anti Corruption Department II, Chennai, in the year 2010. Due to such criminal case, he was suspended by the respondent Corporation on 21.01.2010.

4. Now, the only grievance of the petitioners is that though they have made several representations, the respondent Corporation, even after six years from date of suspension, has not taken any steps either to order enquiry or to review the suspension order.

5. In this regard, it is more relevant to refer to the judgment of the Hon'ble Apex Court in the case of Ajaykumar Choudhary v. Union of India (2015 (7) SCC 291), wherein it is held that the currency of suspension should not extend beyond three months if within this period the charge memo / charge sheet is not served on the delinquent employee. Pursuant to the said ratio laid down by the Hon'ble Apex Court, the Government have issued Letter No.13519/N/2015-1, dated 23.07.2015, requesting the Heads of the Departments to follow its directions issued by the Apex Court in Ajay Kumar Choudhary's case and the relevant portion of the said letter is extracted hereunder:

"3) In view of the above, the Hon'ble Supreme Court of India while fixing limitation on the period of suspension directed that,

(i) The currency of a suspension order should not extend beyond three months if within this period the Memorandum of Charges/Chargesheet is not served on the delinquent officer/employee;

(ii) If the Memorandum of Charges/Chargesheet is served a reasoned order must be passed for the extension of the suspension.

The Departments of Secretariat and Heads of Departments are therefore requested to follow the directions ordered by the Hon'ble Supreme Court of India on the limitations in the period of suspension in letter and spirit."

6. In the light of the above, the respondent Corporation is directed to consider the representations dated 09.09.2015 of the petitioners in both the writ petitions by taking note of the ratio laid down by the Hon'ble Apex Court in Ajaykumar Choudhary's case (cited supra) on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order.

7. With the above direction, the writ petitions stand disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

rkm

To

The Commissioner (Zonal Officer-II),
Corporation of Chennai,
Chennai - 600 003.

1 cc to Mr.G.Anandha Rangan, Advocate, sr.6982

2 cc to Mr.M.Ravi, Advocate, sr.26699, 26698

W.P.Nos.14599 and 14600 of 2016

pvs co
kra 19.05.2016

सत्यमेव जयते

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