

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2016

CORAM

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P. No.22638 of 2016

V.Saravanan

... Petitioner

Vs.

The Director of Municipal Administration,
Chepauk, Chennai - 600 005.

... Respondent

PRAYER : Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent to review the order of suspension dated 21.07.2015.

For Petitioner : Mr.V.Vijay Shankar

For Respondent : Mr.A.Rajaperumal
Government Advocate

O R D E R

This Writ Petition has been filed to issue a Writ of Mandamus, to direct the respondent to review the order of suspension dated 21.07.2015.

2.The petitioner joined service as Record Clerk on 04.02.1999. He was promoted as Junior Assistant on 07.03.2014 and further promoted as Revenue Inspector. Based on certain allegations, he was suspended from service vide order dated 21.07.2015. However, according to the petitioner, till date no charge sheet has been filed. It is his further contention that if no charge sheet is filed beyond a period of 90 days from the date of suspension, he has to be reinstated into service. He made a representation to the respondent on 18.02.2016 but till date no orders have been passed and hence, the Writ Petition has been filed.

3.Mr.V.Vijay Shankar, the learned counsel for the petitioner would submit that the issue of order of suspension cannot be prolonged continuously for long time as per the well settled legal position enunciated by the Hon'ble Apex Court in the case of Ajay Kumar Choudhary vs. Union of India through its Secretary

and another passed in Civil Appeal No.1912 of 2015 dated 16.02.2015. He would also contend that pursuant to the ratio laid down by the Hon'ble Apex Court in Ajay Kumar Choudhary's case (cited supra), the Government also has issued a circular in Letter No.13519/N/2015-1, dated 23.07.2015 for implementation of the direction issued by the Hon'ble Apex Court wherein the Hon'ble Apex Court while fixing limitation on the period of suspension had directed as follows:

“(i) The currency of a suspension order should not extend beyond three months if within this period the Memorandum of Charges/Charge sheet is not served on the delinquent officer/employee;
(ii) If the Memorandum of Charges/Charge sheet 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.”

4. According to the learned counsel for the petitioner, in the case on hand, the petitioner was suspended as early as on 21.07.2015 and even though no charge sheet has been filed till date and hence, he would pray for the disposal of the same.

5. Mr. A. Rajaperumal, the learned Government Advocate for the respondent has got no serious objection to consider the representation of the petitioner and pass appropriate orders, on merits and in accordance with law.

6. Considering the submissions made on either side, this Court, without going into the merits of the claim made by the petitioner, directs the respondent, to dispose of the representation of the petitioner, dated 18.02.2016 in the light of the decision of the Hon'ble Apex Court in Ajay Kumar Choudhary's case [cited supra].

7. The Writ Petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

sri

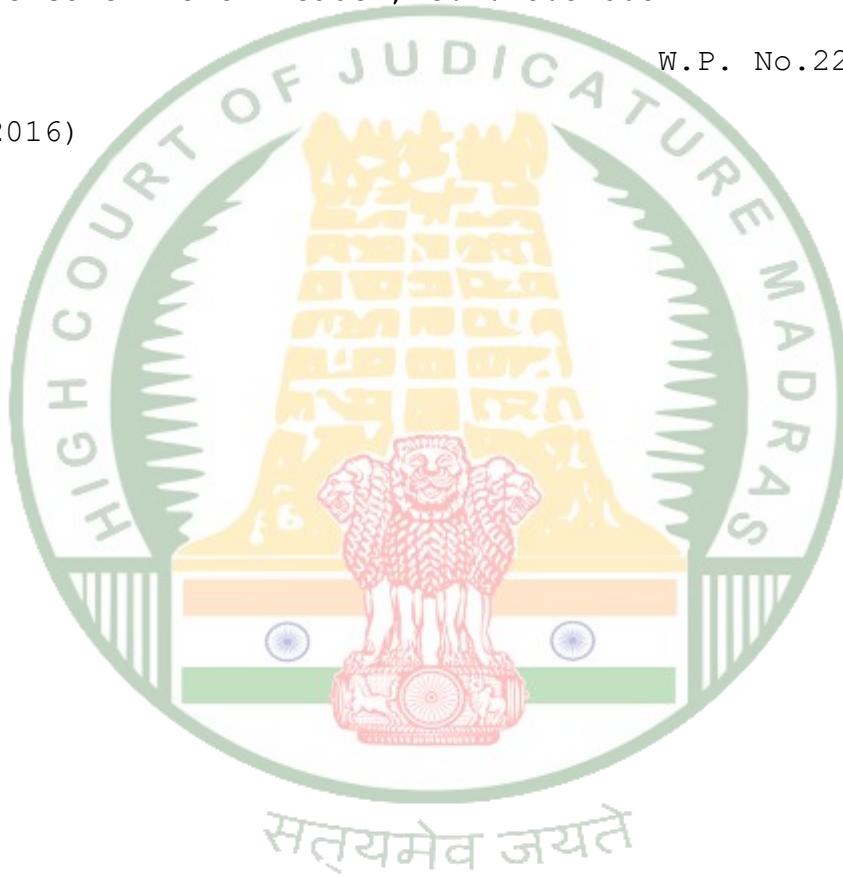
To

The Director of Municipal Administration,
Chepauk,
Chennai - 600 005.

+1cc to Mr.V.Vijay Shankar, Advocate, S.R.No.37109
+1cc to the Government Pleader, S.R.No.37503

W.P. No.22638 of 2016

CTK(CO)
CA(29/07/2016)



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