

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2018

CORAM

THE HONOURABLE Mr.JUSTICE R.SURESH KUMAR

W.P.No.26931 of 2004
& W.P.M.P.No.32803 of 2004

R.Mathanagopal
Sanitary Inspector
Kovilpatty Municipality,
Now at Ooty Municipality,
Ooty.

.. Petitioner

- vs -

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

2.The Commissioner,
Ooty Municipality,
Ooty.

.. Respondents

This Writ petition is filed under Article 226 of the Constitution of India seeking to issue a writ of Certiorari calling for the records relating to the proceedings of the 1st respondent issued in Roc.No.4904/2004/J1, dated 30.08.2004 and quash the same.

For Petitioner : Mr.T.Ranganathan
For Respondents : Mr.G.B.Rajesh,
Govt. Advocate

सत्यमेव जयते
O R D E R

This writ petition has been filed seeking to issue a writ of Certiorari to call for the records relating to the proceedings of the 1st respondent issued in Roc.No.4904/2004/J1, dated 30.08.2004 and quash the same.

2. Heard Mr.T.Ranganathan, learned counsel appearing for the petitioner and Mr.G.B.Rajesh, learned Government Advocate appearing for the respondents.

3. The short facts of the case is that, the petitioner was placed under suspension by the impugned order dated 30.08.2004, challenging the same, this writ petition has been filed.

4. At the time of admission of the writ petition on 08.10.2004, this Court granted an interim order of stay. Pursuant to the said order, the very suspension order itself was revoked by the respondent on 10.10.2004, consequently on 11.10.2004, the petitioner joined duty and had been working for some time.

5. Learned counsel appearing for the petitioner would submit that, the very authority, who passed the impugned order of suspension does not have any jurisdiction and therefore, the suspension order itself is illegal. Therefore, the suspension period i.e., the period between 30.08.2004 and 10.10.2004 altogether 42 days, may be regularised as authorised service for all purposes.

6. Per contra, Mr.G.B.Rajesh, learned Government Advocate appearing for the respondents would submit that, the said suspension order itself has been revoked and the petitioner has been permitted to join duty on 11.10.2004 and he also joined duty and had been working for some time. Hence, the question of challenging the said suspension order does not arise at all as the very impugned suspension order since had been revoked as early as on 10.10.2004 nothing survives in the writ petition.

7. It is also submitted by the learned counsel for the petitioner that, after the revocation of suspension order, the petitioner was permitted to rejoin duty and after some time a disciplinary proceedings had been initiated by the disciplinary authority. Thereafter, enquiry was conducted and ultimately, the punishment of compulsory retirement was inflicted against the petitioner as against which, the petitioner already filed the writ petition before this Court in W.P.No.2851 of 2011, which is also pending before this Court.

8. I have considered the said submissions made by both sides and have taken into account the factual matrix of the case. Since the very suspension order has already been revoked as early as on 10.10.2004, as has been rightly pointed out by the learned Government Advocate appearing for the respondents, nothing survives in this writ petition for further adjudication. In so far as the claim of the petitioner with regularisation of 42 days of the suspension period is concerned, since subsequently, the petitioner had suffered with a punishment made by way of compulsory retirement and the same is the subject matter of yet another writ petition which is pending before this Court, pending the outcome of the said writ petition, the said plea now made by the petitioner cannot be decided.

With these observations, this writ petition is dismissed as no further order is required to be passed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

smi

To,

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

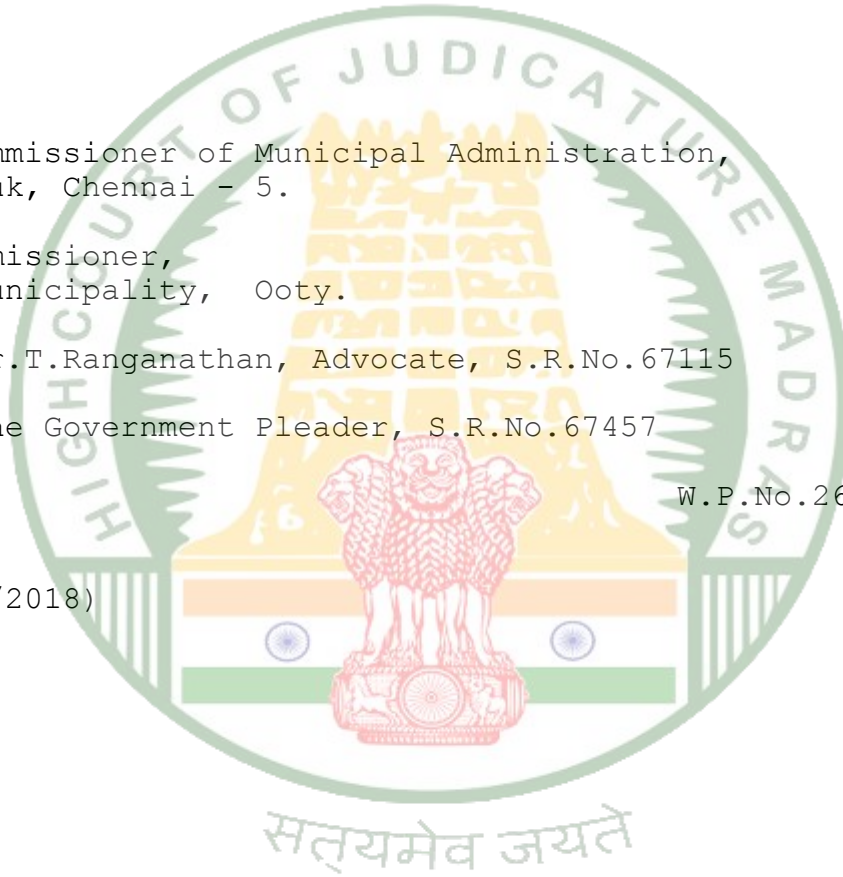
2.The Commissioner,
Ooty Municipality, Ooty.

+1cc to Mr.T.Ranganathan, Advocate, S.R.No.67115

+1cc to the Government Pleader, S.R.No.67457

W.P.No.26931 of 2004

SR(CO)
GSP(13/11/2018)



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