IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.07.2018

Coram

The Hon'ble Mr.Justice Satrughana Pujahari

Writ Petition No. 18479 of 2018
and
W.M.P.No.21803 of 2018

S. Prakash ...Petitioner

Vs.

The Commissioner of Municipal Administration,
O/o The Commissioner of Municipal Administration,
Chepauk, Chennai - 05.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, calling of the records of the proceedings of the respondent issued in Roc. No. 13794/2017/VI Dt. 08-06-2017 and to quash the same with the Consequential Direction, directing the respondent to reinstate the petitioner into service with all attendant and monetary benefits.

For Petitioner : Mr.V.Ravikumar
For Respondent : Mr.V.Kadhirvelu
Special Government Pleader

O R D E R

The petitioner has filed this Writ Petition seeking to quash the proceedings of the respondent issued in Roc. No. 13794/2017/VI Dt. 08-06-2017 and for a consequential direction, directing the respondent to reinstate him into service with all attendant and monetary benefits.

2. At the outset, Mr. V.Ravikumar, the learned counsel appearing for the petitioner submits that the issue involved in this Writ Petition is squarely covered by the decision of this Court in W.P.No.37575 of 2016, dated 11.11.2016 in the case of K.Rani Vs. The Commissioner of Social Welfare, Chennai, a copy of which, has been annexed at para No.16 of the typed-set of papers filed in support of this Writ Petition. Therefore, he prays that the present Writ Petition may also be disposed of in the light of the aforesaid decision.

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3. The Special Government Pleader, who accepts notice on behalf of the respondents does not dispute the position and agrees that the issue involved in this Writ Petition is covered by the decision rendered in the above referred case.

4. On a perusal of the decision relied upon by the learned counsel for the petitioner, it is seen that this Court, taking note of the dictum laid down by the Hon'ble Apex Court in re Ajay Kumar Choudhary Vs. Union of India, reported in 2015 (7) SCC 291 and the instructions issued by the Government of Tamil Nadu vide Letter No.13519/N/2016-1, Personnel and Administrative Reforms Department, dated 23.07.2015, quashed the order impugned therein and allowed the Writ Petition, vide order dated 11.11.2016. In this connection, it would be apposite to quote the relevant portion from the said order, and it is extracted as hereinbelow:-

> " 8. Thus, the Supreme Court has made it clear that the currency of a suspension order should not be extended beyond three months if within this period, the memorandum of charges/charge-sheet is not served on the delinquent officer/employee; if the memorandum of charges/charge sheet is served, a reasoned order must be passed for the extension of suspension.
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> 9. Further, the Government of Tamil Nadu has also issued instructions in Letter No.13519/N/2016-1, Personnel and Administrative Reforms Department, dated 23.07.2015, to all Principal Secretaries to Government Department of Secretariat and Heads of Departments to follow the directions issued by the Supreme Court of India on the limitations relating to the period of suspension, in letter and spirit.
>
> 10. Even in the instant case, the facts of the case would show that the respondents have not passed any reasoned order for extension of suspension in respect of the petitioner herein. The petitioner cannot be kept under prolonged suspension. Further, in the case of Ambigapathy, P.S. Vs. The Director of Public Health & Preventive Medicine, reported in 1991 Writ L.R. 273, a Division Bench of this Court has held that the prolonged suspension is unreasonable and the same is without any justification.
>
> 11. Moreover, I am of the view that though the charge-sheet had been filed by now, the fact remains that the same had not

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been filed within three months from the date of suspension, as held by the Supreme Court in the said case of Ajay Kumar Choudhary (cited supra).

12. Following the above said decisions of the Supreme Court and this Court, I am of the opinion, the petitioner herein is entitled to the relief sought for in this Writ Petition and the impugned order is liable to be quashed. Accordingly, the Writ Petition is allowed and the impugned order is quashed. The respondent is directed to reinstate the petitioner in any non-sensitive post where the Department feels that the petitioner can be accommodated as per the judgment of the Supreme Court in Ajay Kumar Choudhary's case (cited supra). No costs. W.M.Ps. are closed. "

5. Thus, in the light of the law laid down by the Hon'ble Apex Court in Ajay Kumar Choudhary's case (supra) following which, W.P.No.37575 of 2016 was allowed, this Court is of the view that the writ petitioner is also entitled to the relief sought for, inasmuch as, till date, as stated, no charge sheet has been filed against him and though he was put under suspension on 08.06.2017, 1 year and 2 months back, the same has not been revoked.

6. For the reasons assigned hereinabove, the impugned order stands quashed and the Writ Petition is allowed with a direction to the respondent to reinstate the petitioner in any non-sensitive post, where, the respondent/Department feels that the petitioner can be accommodated. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To
The Commissioner of Municipal Administration,
O/o The Commissioner of Municipal Administration,
Chepauk, Chennai - 05.

+1cc to Mr.V.RaviKumar, Advocate, S.R.No.48361
+1cc to the Government Pleader, S.R.No.48361

Writ Petition No. 18479 of 2018

MR(CO)
GSP(30/08/2018)

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