

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2018

CORAM :
THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.30633 of 2018
and
W.M.P.Nos.35721 and 35722 of 2018

V.Sekar

...Petitioner

Vs

1.The Commissioner for Municipal Administration
Chepauk, Chennai 600 005.

2.The Commissioner, Karur Municipality
Karur Post and District.

...Respondents

For Petitioner : M/s.P.I.Thirumoorthy
For Respondents: Mr.K.Rajendra Prasad
Additional Government Pleader

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified Mandamus calling for the records relating to the proceedings of the first respondent dated 13.06.2007 issued in RoC No.32083/2007/S2 and quash the same taking note of the yardsticks applied in the case of co delinquent Thiru Kadirvel and consequently to direct the first and second respondents to reinstate the petitioner into service with all service and monetary benefits.

O R D E R

The petitioner, who was working in the second respondent municipality was suspended by the order dated 13.06.2007 in respect of a criminal case registered against him for the alleged demand and acceptance of Rs.1500/- as bribe for giving water connection to the residence of one Ms.Vanitha. The claim of the petitioner is that he has been kept under suspension for more than 11 years even though the criminal case ended in acquittal as early as on 08.10.2012 and no departmental proceedings is pending against him. Thereafter, the petitioner sent a representation to the respondents for revocation of suspension, which was not considered and the petitioner filed a writ petition in W.P.No.11255 of 2012, which was allowed by this Court, directing the respondents to consider the representation. However, the respondents rejected the representation, citing pendency of criminal appeal in CrI.A(Md) No.1 of 2013, filed by

the respondents against the acquittal of the petitioner. Hence, the petitioner has preferred the present writ petition challenging the prolonged suspension.

2. Learned counsel for the petitioner submits that the suspension order of the co-accused in the criminal case has been revoked and he has also been permitted to retire. Hence, it is claimed that the prolonged suspension of the petitioner is unreasonable, unwarranted and unjustified.

3. The order of suspension is not justified, especially after the acquittal of the petitioner in the criminal case. It is settled law that prolonged suspension is illegal. The Supreme Court in the decision reported in (2015) 7 SCC 291 "Ajay Kumar Choudhary Vs Union of India" , held as follows,

"We, therefore, direct that 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; if the Memorandum of Charges / Charge sheet is served, a reasoned order must be passed for the extension of suspension. We think this will adequately safeguard the universally recognized principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution."

4. It is also not in dispute that no disciplinary proceedings have been initiated against the petitioner subsequent to the order of suspension. When such is the case, keeping the petitioner under prolonged suspension is not justified. Hence, following the aforesaid decision of the Supreme Court, the suspension order dated 13.06.2007 is directed to be revoked and the petitioner is directed to be reinstated into service within a period of one week from the date of receipt of a copy of this order. With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

KST

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The Commissioner for Municipal Administration
Chepauk, Chennai 600 005.

2.The Commissioner, Karur Municipality
Karur Post and District.

+1cc to Mr.D.Raghu, Advocate, S.R.No.84642

+1cc to Mr.P.I.Thirumoorthy, Advocate, S.R.No.83285

+1cc to the Government Pleader, S.R.No.83730

W.P.No.30633 of 2018

VBA (CO)

KAK(20/12/2018)



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