

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2018

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.31774 of 2018
and W.M.P.No.37006 of 2018

R.Manikandan

....

Petitioner

Vs

The Commissioner
 Erode City Municipal Corporation
 Erode District.

....

Respondents

For Petitioner : Mr.P.Ganesan
 For Respondent : Mr.A.N.Thambidurai
 Special Government Pleader

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified Mandamus calling for th records relating to the proceedings in Na.Ka.No.C1/8207/2015 dated 25.11.2015 on the file of the respondent herein, quash the same and consequently direct the respondent to reinstate the petitioner in service forthwith in the light of the decision of the Honourable Supreme Court in Ajay Kumar Choudhary Vs Union of India (2015) 7 S.C.C.291, within a time limit to be specified by this Court.

ORDER

The petitioner, who was working in the respondent Municipality, was placed under suspension from 25.11.2015 on the charges of corruption. In respect to the said charge, a criminal case has been filed and it is pending before the learned Magistrate Court at Erode. After three months of suspension, the petitioner submitted a representation in March 2016, which was not considered. The grievance of the petitioner is that his suspension period is prolonged and therefore he has filed the present writ petition to quash the suspension order dated 25.11.2015 and also to direct the respondents to reinstate the petitioner in service.

DR.S.VIMALA, J.

kst

2. Learned counsel for the petitioner contends that his prolonged suspension is against the judgment rendered by the Supreme Court reported in **(2015) 7 SCC 291 "Ajay Kumar Choudhary Vs Union of India"** and **"State of Tamil Nadu Vs Pramod Kumar"** reported in **2018 SCC Online SC 1079**, and relies upon the following observation.

"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."

2. Mr.M.Rajamathivanan, learned Standing Counsel takes notice for the respondents and submits that a criminal case is pending against the petitioner.

3. Under the circumstances, following the principles laid down in the aforesaid land mark judgment of the Supreme Court, the order of suspension dated 25.11.2015 directed to be revoked and the respondent is directed to reinstate the petitioner in service and post him any non sensitive post, within a period of eight weeks 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 petition is closed.

WEB COPY

03-12-2018**kst**

To

The Commissioner, Erode City Municipal Corporation, Erode District.

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