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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) Nos. 3105 of 2018

and

W.M.P (MD) Nos. 3259 and 3260 of 2018

S.Veluchamy

... Petitioner

Vs.

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

2.The Regional Director of Municipal,
Administration, Tirunelveli-2.

3.The Commissioner,
Rajapalayam Municipality,
Virudhunagar District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent in his proceedings in Na.Ka.No.3330/2017/A2 dated 24.11.2017 and quash the same as illegal, arbitrary, violation of law and further direct the respondents to reinstate the petitioner's in service with all back wages from the date of 24.11.2017.

For Petitioner	:Mr.M.Jothi Basu
For R1 and R2	:Mr.J.Gunaseelan Muthiah Additional Government Pleader
For R3	:Mr.N.Dilip Kumar

ORDER

By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

2.The petitioner is presently working as Revenue Assistant in the third respondent municipality. The Commissioner of the said municipality alone is the disciplinary authority. While so, the second respondent herein by order dated 24.11.2017 has suspended the petitioner from service. The said order suspension is questioned in this writ petition.

3.Heard the learned counsel on either side.

4.The learned counsel appearing for the petitioner placing reliance on the decision of the Hon'ble Supreme Court reported in



2015 (3) CTC 119 (Ajay Kumar Choudhary Vs. Union of India and others) contended that even though three full months have lapsed since passing of the order suspension, he has not been served with any charge memo. Therefore on the sole ground, the suspension has to come to an end and he must be reinstated.

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5. That apart he has also pointed out that as per Rule 8(9) of Tamil Nadu Municipal Service, Rules 1970, he could be placed under suspension only by the disciplinary authority or such other authority to whom the power may be delegated or the Commissioner of the municipality.

6. In the present case, the Commissioner of municipality happens to be the appointing authority to the writ petitioner. Therefore, he is also the disciplinary authority in this case. But the second respondent has passed the order of suspension. Therefore, on the face of it, the impugned order is without jurisdiction. Even though, the second respondent ranks above the third respondent, he would only be an appellate authority.

7. In this view of the matter, the order impugned in this writ petition is quashed. The respondents are directed to reinstate the petitioner into service forthwith.

8. The writ petition is allowed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To

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

2. The Regional Director of Municipal,
Administration, Tirunelveli-2.

3. The Commissioner,
Rajapalayam Municipality,
Virudhunagar District.

+1CC TO M/S.G.M.LAW OFFICE, ADVOCATE, SR NO.55810

+1CC TO M/S.N.DILIP KUMAR, ADVOCATE, SR NO.55896

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