



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2018

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

W.A.[MD].No.797 of 2018
and
C.M.P. (MD).No.4743 of 2018

1. The Commissioner,
Municipal Administration,
Chepauk, Chennai 5.
2. The Regional Director of Municipal Administration,
Tirunelveli 2. : Appellants

Vs.

1. S.Veluchamy
2. The Commissioner,
Rajapalayam Municipality,
Virudhunagar District. : Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 16.03.2018 made in W.P.(MD).No.3105 of 2018, on the file of this Court.

Prayer in WP(MD)No. 3105/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd 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 Petitioners in service with all back wages from the date of 24.11.2017.

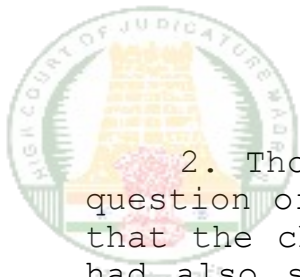
For Appellants : Mr.A.K.Baskarapandian
Special Government Pleader
For respondent No.1 : Mr.M.Jothi Basu

JUDGMENT

[Judgment of the Court was delivered by M.M.SUNDRESH, J.]

<https://hcservices.ecourts.gov.in/hcservices/>

Challenge in this Writ Appeal is to the order dated 16.03.2018 made in W.P.(MD).No.3105 of 2018.



2. Though we find the order of the learned Single Judge on the question of jurisdiction as not correct statement of law, it appears that the charge memo has been issued to the first respondent and he had also submitted his explanation. It is reported that the first respondent has also been reinstated in service in compliance with the order passed by the learned Single Judge, which, by itself, will not take away the adjudication on merits in this appeal. The first respondent has been under suspension from 24.11.2017 onwards.

3. Law is well settled that the Appellate Authority has certainly got power to act as Original Authority. The only embargo is when he acts as original authority, he cannot, thereafter, act as the Appellate Authority. However, this factor is not available in the case on hand.

4. Considering the facts and circumstances of the case, we do not propose to interfere with the order of the learned Single Judge. However, we direct the second respondent to pass appropriate orders on the reply given by the first respondent to the charges within a period of four weeks from the date of receipt of a copy of this Judgment.

5. The Writ Appeal is disposed of, on the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar (CS-IV)

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.

+ 1 CC TO M/s.G.M.LAW OFFICE, IN SR No. 78756

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 78809

NB

TE/JM/SKN/SAR-4 : 18/09/2018 : 2P/6C