

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2019

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
And
THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.A.No.919 of 2019
and
C.M.P.No.6955 of 2019

The Commissioner,
Erode City Municipal Corporation,
Erode District. Appellant

Vs.

R.Manikandan Respondent

Prayer:

Writ appeal filed under Clause 15 of the Letters Patent against the order dated 03.12.2018 made in W.P.No.31774 of 2017.

WP.NO.31774/2017:

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 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 Honorable Supreme Court in Ajay Kumar Choudhary vs.Union of India(2015) 7 SCC 291 within a time limit to be specified by this Court.

For Appellant : Mr.M.Rajamathivanan

For Respondent : Mr.P.Ganesan

J U D G M E N T

(Judgment of the Court was delivered by K.K.SASIDHARAN,J.)

Heard the learned Standing Counsel appearing on behalf of the appellant and the learned counsel for the respondent, who is

on record. By consent, the intra Court appeal is taken up for final disposal during the time of admission.

2. The respondent was placed under suspension, pursuant to a case registered by the Directorate of Vigilance and Anti Corruption. The suspension was on 25.11.2015. Since there was no review of the suspension, the respondent filed a writ petition in W.P.No.31774 of 2018, to quash the very order of suspension. The learned Single Judge allowed the writ petition and issued a direction to the appellant to reinstate the respondent in service and post him in any of the non sensitive post, within a period of eight weeks. The said order is under challenge at the instance of the local body.

3. There is no dispute that the respondent was placed under suspension by order dated 25.11.2015. It is also not in dispute that there was no review of the suspension at any point of time by the disciplinary authority.

4. The learned Single Judge in case of this nature ought to have given a direction to the appellant to consider the prayer made by the respondent for revoking his suspension at the first instance. The question of considering the legality and correctness of the order of suspension would arise only in case the disciplinary authority on considering the factual matrix passed an order on merits. Since no such effort was taken by the learned Single Judge before quashing the order of suspension, we are of the view that the appellant must succeed.

5. The order dated 03.12.2018 is set aside. We issue a direction to the appellant to review the suspension of the respondent on merits and as per law. Such exercise shall be completed on or before 30th April, 2019.

6. The intra Court appeal is allowed as indicated above. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ms/pri

TO:

The Commissioner,
Erode City Municipal Corporation,
Erode District.

+1cc to Mr.P.Ganesan, Advocate sr.28401
+1cc to Mr.M.Rajamathivanan, Advocate sr.27788

W.A.No.919 of 2019
and
C.M.P.No.6955 of 2019

pp(co)
nr 22/04/2019



WEB COPY