

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 27.02.2020
CORAM
THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH
W.P.Nos.10705 of 2018 & 3923 of 2020
and
W.M.P.No.12648 of 2018

K. Srinivasan

... Petitioner in both W.Ps

Vs.

- 1.The Commissioner of Municipal Administration,
Chepauk, Chennai - 600 005.
- 2.The Commissioner,
Kancheepuram Municipality,
Kancheepuram. Respondents

Prayer in W.P.No.3923 of 2020: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of writ of mandamus, to direct the respondents to dispose of the petitioner's representation dated 04.01.2017 and 08.03.2019 and to reinstate the petitioner into service.

Prayer in W.P.No.10705 of 2018: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of writ of certiorarified mandamus, to call for the records connected with the proceedings issued in Na.Ka.No.12649/2013/C1 dated 23.12.2016 passed by the second respondent and quash the same and consequently direct the respondent to reinstate the petitioner into service with all attendant benefits.

For Petitioner : M/s. S. Illamvaludhi

For Respondents : Mr. P.S. Siva Shanmuga Sundaram,
for R1

Special Government Pleader
Mr. G.B. Rajesh, for R2

COMMON ORDER

The issue involved in both the petitions are common.
Therefore, both the writ petitions are taken up together.

2. The case of the petitioner is that he was working as a Revenue Assistant in the Kancheepuram municipality. A criminal case came to be registered against him for the offence under the Prevention of Corruption Act. The petitioner was arrested and remanded to judicial custody. Consequently, a suspension order came to be issued against the petitioner by the first respondent by proceedings dated 22.11.2013. Subsequently, the petitioner made a representation for revocation of the order of suspension and the same was rejected by proceedings dated 23.12.2016. Aggrieved by the same, the petitioner had made representation for revocation of the order of suspension and since the same was not considered, W.P.No.3923/2020 has been filed for a direction to the respondents to revoke the order of suspension.

3. The learned counsel for the petitioner submitted that the petitioner is kept under suspension for the last 7 years. The learned counsel further submitted that the petitioner cannot be kept under prolonged suspension in the light of the dictum laid down by the Hon'ble Supreme Court in Ajay Kumar Choudhary Vs. Union of India and others (2015 (7) SCC 291) and the Commissioner of Municipal administration must be directed to pass appropriate orders and the petitioner can be posted in some non-sensitive post.

4. The second respondent has filed a counter affidavit in this case and it is stated that the petitioner was caught red handed while receiving bribe and he was arrested and remanded to judicial custody. Therefore, there are serious charges against the petitioner and the suspension cannot be revoked till the completion of the criminal case. It is further stated in the counter affidavit that only now a final report has been filed before the learned Chief Judicial Magistrate, Chengalpet and the case is now at the stage of trial in Spl.C.C.No.10/2014. The respondent has therefore sought for the dismissal of both the writ petitions.

5. The learned counsel appearing on behalf of the respondents submitted that there are clear instructions from the Government that in cases of corruption, the period of suspension beyond three months, is not applicable and in order to substantiate the same, the learned counsel relied upon the Government letter dated 26.04.2016.

6. In the present case, the suspension order was passed on 22.11.2013 and it is more than seven years where the petitioner has been receiving subsistence allowance without doing any work.

It is also brought to the notice of this Court that the trial is now in process in the criminal case.

7. In view of the above, there shall be a direction to the petitioner to submit a representation to the first respondent and the first respondent on receipt of the representation shall pass necessary orders revoking the order of suspension and post the petitioner in some non-sensitive post. This order shall be passed within a period of four weeks from the date of receipt of the representation from the petitioner. There shall be a further direction to the Chief Judicial Magistrate cum Special Court, Chengalpet, to complete the proceedings in Spl.C.C.No.10/2014, within a period of three months from the date of receipt of copy of this order. The trial shall be conducted on day-to-day basis.

8. These writ petitions are disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

AT

To

1.The Commissioner of Municipal Administration,
Chepauk, Chennai - 600 005.

2.The Commissioner,
Kancheepuram Municipality,
Kancheepuram.

+1CC TO MR.G.B.RAJESH, ADVOCATE, SR NO.17592 AND 17593

+1CC TO MR. S. ILAMVALUDHI, ADVOCATE SR NO.17141

+1 CC TO THE GOVERNMENT PLEADER HIGH COURT, MADRAS SR.NO.18229

W.P.Nos.10705 of 2018 & 3923 of 2020
and

W.M.P.No.12648 of 2018

mr (co)

NVI/26.05.2020