

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 29.04.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.10932 of 2021

C.Nagappan

...Petitioner

Vs

The Commissioner,
Madurantakam Municipality,
Chengalpattu District.

...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the order of suspension dated 21.05.2020 in Na.Ka.No.395/2020/C1 passed by the respondent herein in pursuant to the initiation of the disciplinary enquiry under Rule 8 (2) of Tamil Nadu Municipal Public and Service (Disciplinary and Appeal) Regulations, 1973 against the petitioner by taking into the consideration of the order of the Hon'ble Supreme Court in Ajay Kumar Choudhary Versus Union of India reported in CDJ 2015 SC 129, quash the same and consequently direct the respondent herein to reinstate the petitioner in service.

For Petitioner : Mr.G.Magesh Kumar

For Respondent : Mr.C.P.Maurya, Standing Counsel

ORDER

The petitioner, while serving as a Sanitary Worker under the respondent Municipality, was placed under suspension, through an order dated 21.05.2020, which is impugned in the present writ petition. The petitioner's representation dated 10.12.2020 seeking for revocation of his suspension was not considered by the first respondent and hence, the present writ petition.

2. The guidelines governing a Government employee to be kept under prolonged suspension, has been dealt with by the Hon'ble Supreme Court in the case of Ajay Kumar Choudhary v. Union of India, (2015) 7 SCC 291 at page 303, in the following

"21. 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 the suspension. As in the case in hand, the Government is free to transfer the person concerned to any department in any of its offices within or outside the State so as to sever any local or personal contact that he may have and which he may misuse for obstructing the investigation against him. The Government may also prohibit him from contacting any person, or handling records and documents till the stage of his having to prepare his defence. We think this will adequately safeguard the universally recognised principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognise that the previous Constitution Benches have been reluctant to quash proceedings on the grounds of delay, and to set time-limits to their duration. However, the imposition of a limit on the period of suspension has not been discussed in prior case law, and would not be contrary to the interests of justice. Furthermore, the direction of the Central Vigilance Commission that pending a criminal investigation, departmental proceedings are to be held in abeyance stands superseded in view of the stand adopted by us."

3. The petitioner is aggrieved against his prolonged suspension. Apparently, the suspension cannot be unjustifiably prolonged, except in accordance with the mandated guidelines as held in the case of Ajay Kumar Choudhary's case (supra). In this background, it would be appropriate for the respondent to consider the petitioner's representation, seeking for revocation of his suspension.

4. Accordingly, there shall be a direction to the respondent herein to consider the petitioner's representation dated 10.12.2020, wherein the petitioner has sought for revocation of the suspension order passed by the respondent vide order dated 21.05.2020, in accordance with the decision of the Hon'ble Supreme Court in the case of Ajay Kumar Choudhary (supra), as expeditiously as possible, in any event, within a period of one week from the date of receipt of a copy

5. The writ petition stands disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

hvk
To

The Commissioner,
Madurantakam Municipality,
Chengalpattu District.

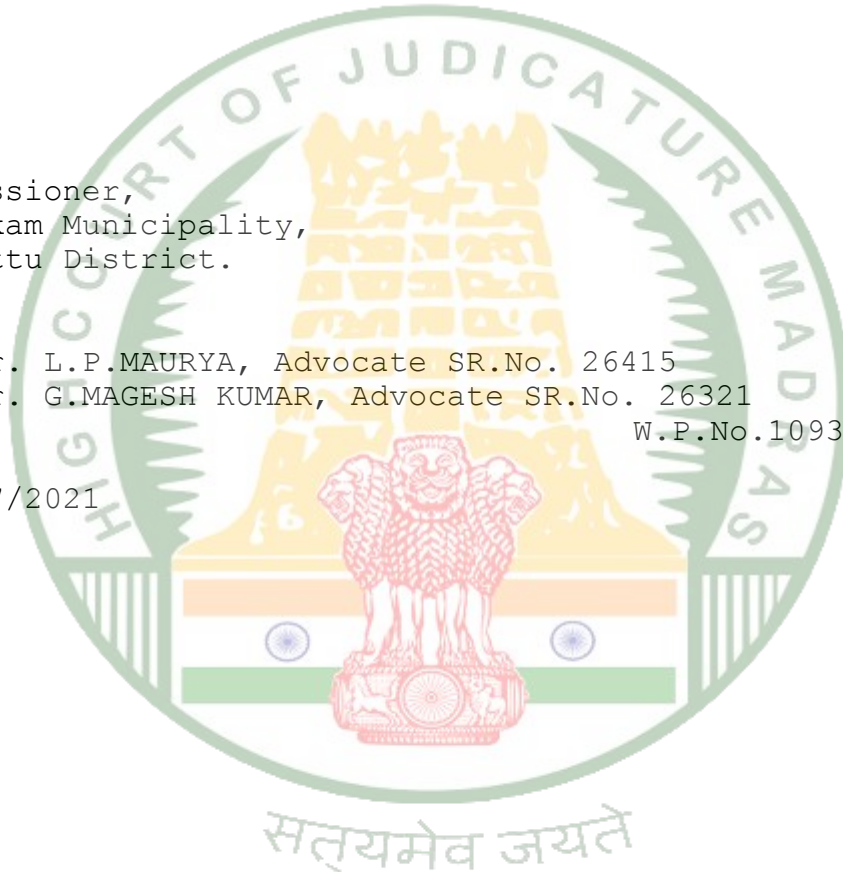
+1cc to Mr. L.P.MAURYA, Advocate SR.No. 26415

+1cc to Mr. G.MAGESH KUMAR, Advocate SR.No. 26321

W.P.No.10932 of 2021

SR II (CO)

A.SK 12/07/2021



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