



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD) No.8713 of 2019

and

W.M.P. (MD) .No.6782 of 2019

WEB COPY

T.Neelamohan

...Petitioner

Vs.

The Commissioner,
Thuraiyur Municipality,
Thuraiyur, Trichy District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records on the file of the respondent in his suspension order, dated, 27.09.2018 in Na.Ka.No.3988/C1/2018 and the charge memo dated 13.12.2018 in Na.Ka.No.3988/2018/C1 and to quash the same and to direct the respondent to reinstate the petitioner in service with all the monetary and service benefits.

For Petitioner	:	Mr.V.S.V.Venkateshvaran
For Respondent	:	Mr.M.Rajarajan Standing Counsel

O R D E R

Heard Mr.V.S.V.Venkateshvaran, learned counsel for the petitioner and Mr.M.Rajarajan, learned Standing counsel for the respondent.

2. The petitioner, while serving as Pipeline Fitter Grade II in the Thuriyor Municipality, was placed under suspension by the respondent herein, through an order dated 27.09.2018. The suspension order, dated, 27.09.2018 in Na.Ka.No.3988/C1/2018 and thereafter, charge memo, dated, 13.12.2018 in Na.Ka.No.3988/2018/C1 are impugned in the present writ petition. The petitioner's representation dated 30.12.2018 seeking for revocation of his suspension was not considered by the respondent and hence the present writ petition.

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

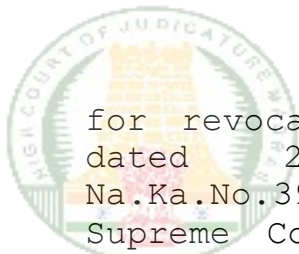
"21.We, therefore, direct that the currency of a suspension order should not extend beyond three months if



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."

4. The petitioner is aggrieved against his prolonged suspension of two years. Apparently, the suspension cannot unjustifiably prolonged, except in accordance with the mandated guidelines as held in the **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.

5. Accordingly, a Writ of Mandamus is hereby issued with a direction to the respondent herein to consider the petitioner's representation dated 30.12.2018, wherein the petitioner has sought



for revocation of the suspension order in Na.Ka.No.3988/C1/2018, dated 27.09.2018 and the charge memo dated 13.12.2018 in Na.Ka.No.3988/2018/C1 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 this order. It is needless to point out that in case, the subsistence allowance has not been paid to the petitioner, the same shall be disbursed forthwith.

6. The Writ petition stands disposed of accordingly. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg

NOTE:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To
The Commissioner,
Thuraiyur Municipality,
Thuraiyur, Trichy District.

+1 CC to M/s.V.S.V.VENKATESHVARAN, Advocate (SR-12581[F] dated 19/03/2021)

Order made in
W.P. (MD) No.8713 of 2019
19.03.2021

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na (CO)

KK (07.04.2021) 3P 3C