



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD) No.9501 of 2019

and

W.M.P (MD) No.7478 of 2019

WEB COPY

C.Thiyagarajan

...Petitioner

Vs.

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

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of suspension, dated, 06.04.2018 passed by the respondent vide his proceedings in Roc.No.9585/2018/V2-2 and quash the same and consequently directing the respondent to reinstate the petitioner in service with all service and monetary benefits to the petitioner.

For Petitioner	:	Mr.J.Parekhkumar
For Respondent	:	Mr.P.Mahendran
		Additional Government Pleader

O R D E R

Heard Mr.J.Parekhkumar, learned counsel for the petitioner and Mr.P.Mahendran, learned Additional Government Pleader for the respondent.

2. The petitioner, while serving as Accountant in Aruppukkottai Municipality, was placed under suspension by the respondent herein, through an order dated 06.04.2018, which is impugned in the present writ petition. The petitioner herein is aggrieved against the prolonged suspension.

3. The learned counsel appearing for the petitioner places reliance on F.I.R.No.06 of 2018, which, he claims the cause of action for suspending his service. According to the learned counsel for the petitioner, the accused namely, Muthu, who was the Municipal Engineer (Commissioner in charge), was also arrested and remanded, had filed a Writ Petition in W.P.(MD).No.11665 of 2018, before this Court and pursuant to the direction of this Court, his suspension order was revoked and he was reinstated into service from 25.06.2018.

4. The learned counsel for the petitioner would submit that since the main accused in the criminal case has been reinstated back into service, the petitioner also would be entitled for such a



benefit.

5. By placing reliance on the decision of the Hon'ble Supreme Court in the case of **Ajay Kumar Choudhary v. Union of India**, reported in (2015) 7 SCC 291, the learned counsel for the petitioner would submit that such a prolonged suspension is impermissible.

6. The Hon'ble Division Bench of this Court in the case of **Tamil Nadu Generation & Distribution Corporation Limited and Ors Vs A.Srinivasan** reported in 2020 LabIC 3814, had held that the principles laid down in the **Ajay Kumar Choudhary's case (supra)** would not be applicable to the delinquencies involving Prevention of Corruption Act.

7. As such, the ground raised by the petitioner for revoking of suspension on the ground of prolonged suspension cannot be sustained. Nevertheless, if the petitioner is granted liberty to approach the respondent with a request to revoke his suspension on sympathetic grounds, the ends of justice could be secured.

8. In the light of the submissions made by the learned counsel for the petitioner, the petitioner is granted liberty to make a fresh representation seeking for revocation of the impugned suspension order and on receipt of such a representation, the respondent herein shall consider the same in the light of the order of revocation of suspension passed in the case of Muthu, Municipal Engineer (Commissioner in charge) and pass appropriate orders within a period of two (2) weeks from the date of receipt of a copy of this order. Incase, the petitioner's suspension was based on any other departmental action or charges, the respondent herein shall consider the representation on its own merits and pass orders in accordance with law. It is made clear that this Court has not expressed any of its view with regard to the merits of the claim made by the petitioner.

9. Accordingly, this Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

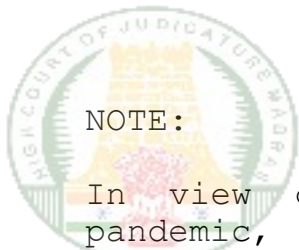
Sd/-

Assistant Registrar (RTI)

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/ /2021

Sub Assistant Registrar(CS)



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 of Municipal Administration,
Chepauk, Chennai-600 005.

+1 CC to M/s.J.PAREKH KUMAR, Advocate (SR-12625[F] dated 19/03/2021)

+1 CC to M/s.SPL GP (SR-12757[F] dated 22/03/2021)

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and

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19.03.2021

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