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W.P. No. 6196 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2022

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. No. 6196 of 2022
and
W.M.P.Nos. 6263 & 6265 of 2022

Mrs. A. Sinorita Anansiya

... Petitioner

Vs.

The Chief Engineer Distribution,
Office of the Chief Engineer/Distribution,
Villupuram Region, Villupuram District.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorarified Mandamus, calling for the records relating to the proceedings in memo no. 002326/Adm.B.1/2020, dated 05.03.2020 on the file of the respondent herein, quash the same and consequently direct the respondent to reinstate the petitioner in service forthwith Assistant Executive Engineer/Civil within a time limit to be specified by this Court.

For Petitioner : Mr. P. Ganesan
For Respondent : Mr. P. Subramanian



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ORDER

This writ petition is filed for the issuance of a writ of Certiorarified Mandamus, calling for the records relating to the proceedings in memo no. 002326/Adm.B.1/2020, dated 05.03.2020 on the file of the respondent herein, quash the same and consequently direct the respondent to reinstate the petitioner in service forthwith as Assistant Executive Engineer/Civil within a time limit to be specified by this Court.

2. According to the writ petitioner, while he was working as Assistant Executive Engineer/Civil at Central Office, Villupuram, on 05.03.2020, based on the allegations levelled against him for awarding of contract to certain contractors, he was placed under suspension by the respondent Board. Challenging the aforesaid suspension order, he has filed the present writ petition before this Court.

3. The learned counsel for the petitioner submitted that the petitioner was placed under prolonged suspension and the same is not permissible in the light of the decision of this Court in the case of ***C. Chelliah vs. The Principal Secretary cum Commissioner of Commercial Taxes, Chennai in W.P.No.***

1398 of 2015 dated 21.10.2016, by following the judgment of the Hon'ble



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Supreme Court in the case of ***Ajay Kumar Choudhary vs Union of India, reported in (2015) 7 SCC 291***, wherein the Apex Court has held that retaining the employees under prolonged suspension is not desirable and instead they may be posted in non-sensitive post where the Department feels that the employee can be accommodated. Therefore, he seeks for revocation of the suspension order.

4. The learned Government Pleader would submit that serious allegations have been levelled against the petitioner. Therefore, charges were framed by the respondent and he was placed under suspension. The representation of the writ petitioner will be considered, in the light of order passed by the 'Hon'ble Full Bench of this Court in the case of ***P.Kannan Vs The Commissioner for Municipal Administration and Others (W.P.Nos.2165 of 2015 and 21628 of 2018 dated 15.03.2022)***, wherein, it is held as follows:

*(i) The judgment of the Apex Court in the case of **Ajay Kumar Choudhary**, supra, does not lay down absolute proposition of law that an order of suspension cannot be continued beyond the period of three months if the memorandum of charges/charge- sheet has not been served within three months, or if memorandum of charges/charge- sheet is served without reasoned order of extension.*



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(ii) *The judgment in **R.Balaji**, supra, has no reference to the earlier judgments of co-equal strength and is thereby rendered per incuriam.*

(iii) *The issue of challenge to the order of suspension should be analyzed on the facts of each case, considering the gravity of the charges and the rules applicable.*

(iv) *Revocation of suspension with a direction to the employer to post the delinquent in a non-sensitive post cannot be endorsed or directed as a matter of course. It has to be based on the facts of each case and after noticing the reason for the delay in serving the memorandum of charges/charge-sheet.*

5. In the light of the aforesaid decisions of this Court as well as Hon'ble Supreme Court, this Court is inclined to direct the Chief Engineer Distribution/respondent to consider the petitioner's representation dated 08.05.2020 and pass appropriate orders taking into account the orders passed by the Hon'ble Full Bench of this Court in the case of **P.Kannan Vs The Commissioner for Municipal Administration and Others (W.P.Nos.2165 of 2015 and 21628 of 2018 dated 15.03.2022)**, as expeditiously as possible within a period of 12 weeks from the date of receipt of a copy of this order.



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6. With the above directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

17.06.2022

Index : Yes / No
Internet : Yes/ No
mrn

To
The Chief Engineer Distribution,
Office of the Chief Engineer/Distribution,
Villupuram Region, Villupuram District.



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D.KRISHNAKUMAR, J.

(mrn)

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