



WEB COPY

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 21.01.2022

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.18238 of 2018
and
W.M.P.No.21545 of 2018

S.Damodharan

...Petitioner

Vs

The Commissioner,
Tambaram Municipality,
Tambaram, Chennai - 600 045.

...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus call for the records relevant to the order in Na.Ka.No.2853/2018/H1 dated 26.06.2018 passed by the respondent and quash the same as illegal, improper and against the natural justice and thereby directing the respondents to reinstate the petitioner into his service with all back wages from 20.06.2018.

For Petitioner : Mr.B.Gopala Krishnan

For Respondent : Mr.P.Srinivas

ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.

2. In view of the petitioner's involvement in a criminal case in FIR.No.852 dated 20.06.2018 for the offences under Section 294(b), 353, 506(1) IPC, the petitioner was placed under suspension, through the impugned order dated 26.06.2018.

3. 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 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



WEB COPY

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. Admittedly, the criminal case has not concluded, the consequence of which, the petitioner is under suspension for more than 3 years. There is nothing on record to show that the respondent had passed a reasoned order for extension of the suspension period beyond 3 months as contemplated in Ajay Kumar Choudary's case (supra). Accordingly, the suspension order itself cannot be sustained.

5. In the light of the above observation, the impugned suspension order dated 26.06.2018 is revoked. Consequently, there shall be a direction to the respondent herein to reinstate the petitioner back into service with back wages from 20.06.2018 onwards, within a period of one week from the date of receipt of a copy of this order. The Writ Petition stands allowed, accordingly. No costs. The connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar



To
The Commissioner,
Tambaram Municipality,
Tambaram, Chennai - 600 045.

WEB COPY

+1 cc to Mr.B.Gopala Krishnan, Advocate Sr.NO.3781
+1 cc to Mr.P.Srinivas, Advocate Sr.NO. 4135

W.P.No.18238 of 2018
and
W.M.P.No.21545 of 2018

PMK (CO)
A.SK (08.02.2022)