



WEB COPY



W.P.No.5468 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.5468 of 2023

and

W.M.P.Nos.5512 & 5513 of 2023

P.Sundararajan

...Petitioner

Vs

- 1.The Director,
Tamilnadu Fire and Rescue Service,
No.17, Rukamni Lakshpathi Salai,
Egmore, Chennai – 600 008.
- 2.The District Officer,
Department of Tamilnadu Fire and Rescue Service,
South Chennai, Ashok Nagar,
Chennai – 83.
- 3.V.Sankar
The Inquiry Officer,
Assistant Director,
Department of Tamilnadu Fire and Rescue Service,
Ashok Nagar (South Chennai)
Chennai – 83.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records pertaining to the



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impugned order dated 14.07.2022 vide Na.Ka.No.12589/Aa/2021 passed by 2nd respondent and quash the same as illegal unconstitutional.

For Petitioner : Mr.C.Iyyapparaj

For Respondents : Mr.V.Stalin Abbimanyu, for RR1 & 2
Additional Government Pleader

ORDER

Heard, Mr.C.Iyyapparaj, the learned counsel for the petitioner and Mr.V.Stalin Abbimanyu, the learned Additional Government Pleader for the respondents 1 and 2.

2. This Court has already disposed of this writ petition on 24.02.2023 and the order has not been signed on that day, as some clarifications were required. Accordingly, the matter is listed today under the caption for 'being spoken to'.

3. Learned counsel for the petitioner has made an endorsement to the effect that he is not pressing the present prayer sought as against the third respondent. Accordingly, the Writ Petition as against the third respondent stands dismissed.



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4. On the ground of prolonged suspension, the petitioner seeks for interference to the suspension order through the present Writ Petition.

5. The Hon'ble Supreme Court, in the case of ***Ajay Kumar Choudhary v. Union of India***, reported in ***(2015) 7 SCC 291***, had set certain guidelines with regard to prolonged suspension. On a reference made by me, the Hon'ble Full Bench of this Court, in the case of ***P.Kannan Vs. Commissioner of Municipal Administration and others*** reported in ***(2022) 2 CTC 353***, had held that the judgement of the Apex Court, in the case of ***Ajay Kumar Choudhary (supra)***, does not lay down an absolute proposition of law that an order of suspension cannot be continued beyond the period of three months on the circumstances mentioned therein and that the order of suspension should be analysed on the facts of each case, considering the gravity of charges and the Rules applicable. It was further held that the revocation of the suspension with a direction to the employer to post the delinquent in a non-sensitive post, as held in ***Ajay Kumar Choudhary's case (supra)***, also cannot be endorsed or directed as a matter of course.



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6. In line with the orders passed by the Hon'ble Supreme Court, as well as the Hon'ble Full Bench of this Court, the Government, in G.O.(Ms) No.81, Human Resources Management (N) Department, dated 04.08.2022, had stipulated a compendium of instructions for review of suspension orders in matter which are pending enquiry into grave charges.

7. On consideration of these instructions in G.O.(Ms) No.81, this Court is of the view that the respondents herein could be directed to review the order of suspension, in accordance with the guidelines issued thereunder.

8. In the light of the above findings, there shall be a direction to the first respondent herein to consider the petitioner's representation dated 18.04.2022, seeking for revocation of the suspension order, in accordance with the instructions issued by the Government in Na.Ka.No.12589/Aa/2021, dated 14.07.2022, and pass appropriate orders, within a period of two weeks from the date of receipt of a copy this order.



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9. Accordingly, the Writ Petition stands disposed of.

Consequently, connected miscellaneous petitions are closed. No costs.

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Index:Yes/No

Neutral Citation: Yes/No

AT

To

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M.S.RAMESH,J.

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