



W.P.No.6632 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.6632 of 2023

and

W.M.P.No.6698 of 2023

S.Srinivasan

...Petitioner

Vs

1.The Secretary to Government,
Revenue and Disaster
Management Department,
Secretariat, Chennai - 600 009.

2.The Principal Secretary &
Commissioner of Revenue Administration
& Disaster Management,
Chepauk, Chennai - 600 005.

3.The District Collector,
Collector's Office,
Kancheepuram District - 631 501.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records culminating in the impugned order dated 12.07.2022 in Letter No.efile/4199/Ser.2(3)/2022 passed by the 2nd respondent confirming the



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order of suspension made in G.O.(2D) No.366, Revenue & Disaster Management Department, Chennai - 9 dated 08.12.2017 and quash the same and direct the respondents to reinstate the petitioner in service with all benefits including continuity of service.

For Petitioner : Mr.S.Lakshmanasamy

For Respondents : Mr.R.U.Dinesh Raj Kumar,
Additional Government Pleader

ORDER

With the consent of both the parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

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

3. 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*



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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.

4. 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.



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5. 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.

6. In the instant case, the petitioner's request for revocation of the suspension order has been rejected by the second respondent in the impugned order dated 12.07.2022. In the light of the findings of this Court that the request of the petitioner can be considered in accordance with G.O.(Ms) No.81, the impugned order cannot be sustained.

7. In the result, the impugned order dated 12.07.2022, confirming the order of suspension made in G.O.(2D) No.366, Revenue & Disaster Management Department, dated 08.12.2017, is quashed. Consequently, the matter is remitted back to the respondents herein for re-consideration of the petitioner's request for revocation of the suspension, in accordance with the instructions issued by the Government in G.O.(Ms).No.81, dated 04.08.2022. Such orders shall be passed within a period of two weeks from the date of receipt of a copy this order.



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8. Accordingly, the Writ Petition stands disposed of. No costs.

Consequently, connected miscellaneous petition is closed.

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Index: Yes/No

Neutral Citation: Yes/No

Speaking order/Non-speaking order

hvk

To

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M.S.RAMESH,J.

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