



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 30.06.2023

Pronounced on : 21.09.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

**W.P(MD)No.12979 of 2023
and
WMP(MD)No.10984 of 2023**

P.R.Balasubramaniam

... Petitioner

Vs.

- 1.The Secretary,
Municipal Administration and
Water Supply Department,
Chennai.
- 2.The Director,
Municipal Administration,
Chennai.
- 3.The Regional Director of Municipal
Administration,
Madurai.
- 4.The Municipal Commissioner,
Sivagangai.

... Respondents



Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for the records in Roc No.1984/2022/C1 dated 13.05.2022 on the file of the second respondent and quash the same as illegal, incompetent, void, without jurisdiction and unconstitutional and for consequential orders and thus render justice.

For petitioner : Mr.S.Ramesh

For Respondents : Mr.T.Villavan Kothai for R1 to R3
Additional Government Pleader

Mr.A.Kathiravan for R4

ORDER

Heard both sides.

2.The petitioner was holding the post of Municipal Commissioner, Sivagangai Municipality. Vide proceedings dated 13.05.2022, the Director of Municipal Administration, Chennai suspended the petitioner. Questioning the same, the present writ petition came to be filed.

3.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of this writ petition. During the course of submissions, the learned counsel for the petitioner pointed out that the real reason for suspension was an unpleasant occurrence during the course of



review meeting held by the Director of Municipal Administration. The additional typed set of papers was filed enclosing the news published in the media. The learned counsel pointed out that the Director of Municipal Administration used certain inappropriate expressions and that was objected to by the petitioner and that was why the impugned order of suspension was passed. He pointed out that since the petitioner did not want to aggravate the matter, he consciously refrained from naming the authority in person. He called upon this Court to grant relief as prayed for.

4.The third respondent had filed counter affidavit and the learned Additional Government Pleader took me through its contents. The stand of the respondent is that since the petitioner had committed acts of misconduct and caused loss to the local body, in contemplation of holding an enquiry, the suspension order came to be passed. It is further stated that as and when the petitioner is exonerated, he will get back all the benefits and that his rights will not be infringed. It was added that the petitioner is being paid subsistence allowance as per rules. The learned Additional Government Pleader would contend that no legal ground has been made out for interference. The respondents pressed for dismissal of this writ petition.



5.I carefully considered the rival contentions and went through the materials on record. Though the learned counsel for the petitioner had claimed that the authority who issued the suspension order had used abusive expressions during a review meeting and that the suspension is a fall-out of the same, in the affidavit filed in support of this writ petition, such a plea has not been taken. The official who suspended the petitioner has not been arrayed in person. Therefore, I am not in a position to go into the said contention.

6.In paragraph 3 and 4 of the counter affidavit, the respondents had referred to the audit reports. But they are subsequent in point of time. The suspension order was passed on 13.05.2022. The writ petition was filed in May 2023. The primary ground taken is that even though one full year had elapsed, the writ petitioner has not been served with any charge memo. Only thereafter, the respondents had woken up and issued charge memo dated 23.06.2023. I went through the contents of the charge memo. It is alleged that on account of the acts committed by the petitioner, financial loss was caused to the local body. The Hon'ble Supreme Court in the decision reported in **(2015) 7 SCC 291 (Ajay Kumar Choudhary v. Union of India)** had held that an order of suspension must be periodically reviewed. Unlike teachers working in aided private schools, the suspension will not come to an



end at the end of a particular period. But then, it must be periodically reviewed. In the counter affidavit, I do not find any averment that the suspension was reviewed periodically. The petitioner alleges that he was paid only 50% of the salary towards Subsistence Allowance and not 75%. Even charge memo was issued only after filing of the writ petition. The respondents have not taken the stand that continuance of the petitioner's suspension is necessary for conducting the enquiry. There is nothing on record to show that directing reinstatement of the petitioner will any way affect the enquiry or public interest. The case against the petitioner is based on documentary evidence. I am satisfied that the continuance of the petitioner's suspension is not necessary. I direct the respondents 1 and 2 to reinstate the petitioner in service forthwith and without any delay. I make it clear that I have not interfered with the order of suspension. I am only directing its revocation.

7.This writ petition is allowed on these terms. No costs. Connected miscellaneous petition is closed.

21.09.2023

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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