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W.A.No.2502 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.08.2024

CORAM :

THE HON'BLE MR. D.KRISHNAKUMAR, ACTING CHIEF JUSTICE

and

THE HONOURABLE MR.JUSTICE P. B.BALAJI

W.A.No.2502 of 2024 and

CMP No.17895 of 2024

1. The District Collector, Rajaji Salai,
Fourth Floor, 62, Beach Road,
George Town, Chennai-1.

2. The Revenue Divisional Officer,
South Chennai Division,
Guindy, Chennai-32.

...Appellants

Vs.

S.Ramesh

... Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 05.03.2024 in W.P.No.224 of 2024 and allow the writ appeal.

For Appellants : Mr.A.Edwin Prabhakaran,
State Government Pleader

For Respondent : Mr.S.Vijayakumar, Senior Counsel
for Mr.K.N.Pandian

ORDER

Page 1 of 7



W.A.No.2502 of 2024

(Order of the Court was delivered by the Hon'ble Acting Chief Justice)

Assailing the order passed by the learned Single Judge dated

05.03.2024 in W.P.No.224 of 2024, directing the appellants to reinstate the respondent herein into service and place him in a non sensitive post, the Government has filed the present intra court appeal.

2. The respondent/writ petitioner was working as a Village Administrative Officer and he was suspended from service on 26.07.2022 in view of the case registered against him under the Vigilance and Anti-Corruption Act. His representation dated 02.11.2022 for revocation of suspension and reinstatement into service was rejected by second appellant, vide order dated 14.11.2023. Challenging the above impugned order, the respondent has filed the writ petition and it was allowed, as stated supra and the same is impugned herein.

3. According to the learned Senior Counsel appearing for the respondent, by taking into account the prolonged suspension, the learned Single Judge, has allowed the writ petition, as per the ratio laid down by the Hon'ble Supreme Court in ***Ajay Kumar Choudhary Vs. Union India in Civil***



W.A.No.2502 of 2024

Appeal No.1912/2015. Therefore, the order of the writ court does not warrants any interference by this court.

4. The learned State Government pleader submitted that, as per the directions of the Hon'ble Supreme Court in ***Ajay Kumar Choudhary Vs. Union of India in Civil Appeal No.1912/2015*** and also the order passed the ***Full Bench of this Court in P.Kannan and another Vs. The Commissioner of Municipal Administration and others in W.P.No.2165 and 21628 of 2018 dated 15.03.2022***, the Government has issued instructions vide G.O.Ms. No.81, Human Resources Management (N) Department, dated 04.08.2022, directing all the authorities to follow the instructions, while dealing with the disciplinary matters. Therefore, as per the instructions, as stipulated in the said government order, specifically at Clause 11(xi), the case of the respondent will be considered by the authorities concerned and appropriate decision will be taken, by taking into account the decision of the Full Bench of this Court in the case of ***Kannan***, as stated supra and in accordance with law.

5. The learned counsel for the respondent also given consent to the



W.A.No.2502 of 2024

submission made by the learned State Government Pleader.

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6. In the Government Order in G.O.(Ms) No.81, Human Resources Management (N) Department, dated 04.08.2022, at paragraph No.11(XI), it is held as follows.

11. The Government, after careful examination, reiterates the guidelines issued in the Government order second read above with slight modification as follows.

(i)...

...

(xi) In cases where the charge in the criminal case involves complicated questions of law and fact and the disciplinary authority is not in a position to finalize the departmental disciplinary proceeding and if the criminal case is based on the vigilance report and is pending before the court of law for which no reasons are explained explicitly, the authority competent may take a decision by taking up review of suspension and post the Government Servant in a non-sensitive place in consultation with the appropriate investigating authority/Vigilance Commission on case to case basis in view of the reason that prolonged suspension and paying subsistence allowance for a long period without extracting work is not at all acceptable. Such revocation of suspension can be made based on the facts of each case and after noticing the reason for the delay in serving the Memorandum of charges/charge sheet. The decision of the Hon'ble High Court of Madras in *P.Kannan case*, given in para 5 above, shall be taken into account.



W.A.No.2502 of 2024

WEB COPY

7. Inview of the above government order and also taking into account the submission made by the learned counsel appearing on either side, the order passed by the learned Single Judge is set aside and the writ appeal is disposed of with the following directions.

i) The second petitioner viz., Revenue Divisional Officer, South Chennai Division, Guindy, Chennai-32 is directed to send necessary report to the Secretary to Government, Revenue Department, who is the competent authority to consider the respondent's request for revocation of suspension order, within a period of one week from the date of receipt of a copy of this order.

ii) On receipt of such report, the Secretary to Government, Revenue Department, Secretariat is directed to take appropriate decision on the request of the respondent, in the light of the G.O.Ms.No.81, dated 04.08.2022, within a period of eight weeks from the date of receipt of the report from the second respondent.

8. With the above direction, this writ appeal is disposed of . There shall be no order as to costs. The connected CMP No.17895 of 2024 is

Page 5 of 7



closed.

WEB COPY



W.A.No.2502 of 2024

(D.K.K., A.C.J.)

(P.B.B.J.)

20.08.2024

mst

Copy to

The Secretary, Revenue Department,
Government of Tamil Nadu,
Secretariat, Chennai 600 009.



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W.A.No.2502 of 2024

THE HON'BLE ACTING CHIEF JUSTICE

and

P. B.BALAJI,J.

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