



WEB COPY

W.A.(MD) No.1005 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.A.(MD) No.1005 of 2021
and
C.M.P.(MD) No.4546 of 2021**

The Executive Officer
Selection Grade Town Panchayat
Srivaikundam
Thoothukudi District

... Appellant

-vs-

C.Tamil Selvan

... Respondent

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 02.09.2020, passed in W.P.(MD) No.10744 of 2020, on the file of this Court.

For Appellant : Mr.S.P.Maharajan
Special Government Pleader

For Respondent : Mr.G.Thalaimutharasu



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J U D G M E N T

[Judgment of the Court was made by D.KRISHNAKUMAR, J.]

This writ appeal is directed against the order of the learned Single Judge, dated 02.09.2020, passed in W.P.(MD) No.10744 of 2020.

2. The respondent / writ petitioner was working as an Electrician in the appellant Town Panchayat. While so, in connection with a criminal case in Crime No.169 of 2016, on the file of Navi Mumbai (MS) Police Station at Maharashtra, the respondent was arrested on 16.09.2016 and he was in judicial custody. On account of registration of a criminal case, the respondent was suspended from service with effect from 16.09.2016. Challenging the said suspension order and seeking for revocation of the suspension order, the respondent filed the writ petition by relying upon the decision of the Honourable Supreme Court in the case of **Ajay Kumar Choudhary vs. Union of India**, reported in **2015 (7) SCC 291**. The learned Single Judge, by order dated 02.09.2020, quashed the suspension order and remanded the matter back to the file of the authority concerned for fresh consideration. Challenging the same, the present writ appeal has been preferred.



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3. At the outset, it is to be noted that the Full Bench of this Court in the case of ***P.Kannan vs. Commissioner of Municipal Administration and others***, reported in ***(2022) 2 CTC 353***, has held that the decision in the case of ***Ajay Kumar Choudhary*** (cited supra) does not lay down absolute proposition of law that suspension order cannot be continued beyond the period of three months on the circumstances mentioned therein and that the order of suspension should be analyzed on the facts of each case, considering the gravity of the charges and the relevant Rules. The Full Court has further held that revocation of suspension with a direction to the employer to post the delinquent employee in a non-sensitive post cannot be directed as a matter of course.

4. Pursuant to the above orders passed by the Honourable Supreme Court as well as the Full Bench of this Court, the Government issued G.O.(Ms) No.81, Human Resources Management (N) Department, dated 04.08.2022, stipulating a compendium of instructions for review of suspension orders, which are pending enquiry into grave charges. In such circumstances, we are of the view that the order passed by the learned Single Judge does not warrant interference of this Court.



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5. However, the appellant is directed to consider the case of the respondent in the light of the above cited decisions and pass orders on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. It is needless to state that the appellant shall also take into consideration the fact that the alleged occurrence, for which the criminal case was registered against the respondent, was taken place outside the employment.

6. With the above direction, this writ appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.]

[R.V., J.]

05.01.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:
The Executive Officer,
Selection Grade Town Panchayat,
Srivaikundam,
Thoothukudi District.



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