



W.P.(MD)No.16235 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.07.2024

CORAM:

**THE HONOURABLE MS.JUSTICE R.N.MANJULA**

W.P.(MD)No.16235 of 2024 &  
W.M.P.(MD)Nos.14114 & 14116 of 2024

S.Muniyandi

... Petitioner

vs.

1.The Director,  
Department of Fire and Rescue Services,  
O/o.The Department of Fire and Rescue Services,  
Chennai.

2.The Deputy Director,  
Department of Fire and Rescue Services,  
Central Region,  
Trichy District.

... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus calling for the records pertaining to the impugned order of the second respondent in Na.Ka.No. 5122/AA1/2023, dated 16.10.2023, quash the same and subsequently direct the respondents to regularize the service of the petitioner.

For Petitioner : Mr.S.Ramsundarvijayraj

For Respondents : Mr.J.Ashok  
Additional Government Pleader



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## **ORDER**

Heard Mr.S.Ramsundarvijayraj, learned counsel appearing for the petitioner and Mr.J.Ashok, learned Additional Government Pleader appearing for the respondents.

2. The petitioner has filed this writ petition seeking to quash the order of the second respondent in Na.Ka.No.5122/AA1/2023, dated 16.10.2023 and to direct the respondents to regularize his service.

3. The petitioner has been placed under suspension on 16.12.2023 on the ground that a criminal case registered under the Prevention of Corruption Act is pending against him.

4. Mr.S.Ramsundarvijayraj, learned counsel appearing for the petitioner submitted that despite the petitioner was placed under suspension on 16.10.2023, so far, he has not been given with charge memo. Reliance has been placed upon the Judgment in the case of ***Ajay Kumar Choudhary vs. Union of India reported in (2015) 7 SCC 291***



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**[Ajay Kumar Choudhary's case]**, wherein, the Apex Court had laid down the dictum that the period of suspension shall not exceed three months, if memorandum of charges / charge sheet has not been served upon the person within the said period. It is further observed that even in the event of extending suspension, a revised order should be passed.

5. However, Mr.J.Ashok, learned Additional Government Pleader appearing for the respondents has relied upon the Full Bench Judgment of this Court in the case of ***P.Kannan vs. 1.The Commissioner of Municipal Administration and others in W.P.Nos.2165 of 2015 and 21628 of 2018***. The Full Bench in its order dated 15.03.2022 has held that ***Ajay Kumar Choudhary's case*** does not lay absolute proposition of law with regard to extension of suspension beyond a period of three months and each case has to be analysed basing on its own facts and circumstances and also taking into account of gravity of the charges. The Full Bench has further observed that in respect of trap cases, if the suspension is revoked, that will cause serious consequences.



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6. Reference has been made about the discussion made by the Full Bench in the earlier order of this Court in W.P.(MD)No.6982 of 2024 dated 10.04.2024. The relevant portion of the order is extracted hereunder.

*"4. It is further held that in a case of trap, an order of interference with the order of suspension would have serious consequences. The Full Bench has made a specific observation that all the cases where memorandum of charges/charge sheet was not filed within three months if an order of revocation is passed with a direction to reinstate the delinquent in a non-sensitive post would have also some serious consequences. Hence, due caution should be made before issuing such order.*

*5. An illustration has also been made in the said order for placing an employee for revoking the suspension of an employee against whom allegation of rape has been made by a co-employee followed by a registration of a criminal case. It is held that merely because a charge sheet could not be submitted within a period of three months, order of suspension cannot be revoked with any consequential direction. In the instant case, the petitioner is said to have involved in a trap case but in a case of such a serious nature investigation ought to have been completed within a short time and the petitioner should have been given with a charge sheet. Nothing would have precluded the respondent from furnishing the charge memo if the respondents deems it fit to initiate disciplinary proceedings. But so far, the respondents have not taken any steps in that direction. Though it is right to state that revoking suspension of this nature would have serious consequence, if the respondents does not show enough seriousness in serving the*



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*charge memo at the earliest in order to initiate the disciplinary proceedings to be completed within any specific time frame just because the petitioner is said to have trapped and involved in DVAC case, the suspension cannot be kept eternally without any revision.*

*6. As rendered in the Ajay Kumar Choudhary's case, the respondents have not passed any revised orders so as to continue the order of suspension. In such case, paying the subsistence allowance without getting any work done by a staff is also a loss to the Government. Hence, I feel pending investigation/pending criminal case, the order of suspension be revoked and the petitioner can be reinstated in some non-sensitive post."*

7. In the instant case, the criminal case against the petitioner has been registered on 12.10.2023. The respondents could have furnished the charge sheet within the period of three months. For the reasons best known to them, they have not furnished the charge sheet. However, taking into consideration of the serious allegations made against the petitioner, considering the seriousness in which the disciplinary proceedings should be concluded if it is seriously contemplated, and in view of avoiding uncertainty hanging on the life of the petitioner, I feel that the respondents shall consider the representation made by the petitioner in a comprehensive manner and pass appropriate orders.



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8. In view of the above observations, the writ petition is **disposed of** and the respondents are directed to consider the representation of the petitioner dated 09.07.2024 in a comprehensive manner and pass appropriate orders within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

18.07.2024

NCC: Yes/No

Index : Yes/No

Speaking/Non-Speaking order

*mbi*

To

1.The Director,  
Department of Fire and Rescue Services,  
O/o.The Department of Fire and Rescue Services,  
Chennai.

2.The Deputy Director,  
Department of Fire and Rescue Services,  
Central Region,  
Trichy District.



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R.N.MANJULA, J.

*mbi*

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