



W.P.(MD)No.1823 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.03.2025

CORAM:

THE HON'BLE MR.JUSTICE BATTU DEVANAND

W.P.(MD).No.1823 of 2025

and

W.M.P(MD)Nos.1316 and 1317 of 2025

Udayakumar

... Petitioner

Vs.

1. The Director of Municipal Administration,
Office of the Director of Municipal Administration,
Chennai.

2. The Commissioner of Municipality,
Keelakarai Municipality,
Ramanathapuram District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 2nd respondent in Na.Ka.No.27/2024/C-1 dated 09.01.2024 and the consequent impugned order in Na.Ka.No.27/2024/C-1 dated 13.12.2024 and quash the same and consequently direct the respondents to reinstate the petitioner into service with all continuation, service benefits and monetary benefits.



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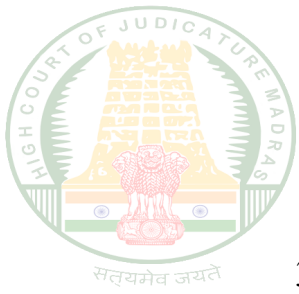
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For Petitioner : Mr.K.Naveentharaaja
For R1 : Mr.P.Subbaraj
Special Government Pleader
For R2 : Mr.K.Saravanan
Standing Counsel

ORDER

Heard, learned counsel for the petitioner, Mr.P.Subbaraj, learned Special Government Pleader for the 1st respondent and Mr.K.Saravanan, learned Standing Counsel for the 2nd respondent. Carefully examined the materials available on records.

2. The case of the petitioner is that he was working as Junior Assistant in the 2nd respondent municipality. Pursuant to the registration of a criminal case in Cr.No.1 of 2024 by the Vigilance and Anti Corruption Wing, Ramanathapuram, the petitioner was kept under suspension vide order dated 09.01.2024, passed by the 2nd respondent. Thereafter, he filed the writ petition in W.P(MD).No.18463 of 2024, seeking for a direction to revoke the suspension order in the light of G.O.Ms.No.81 Human Resources Management (N) Department dated 04.08.2022.



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3. This Court while disposing the said writ petition on 02.08.2024 directed the respondents herein to consider the representation dated 15.04.2024 of the petitioner in the light of the said Government Order, within a period of eight (8) weeks.

4. Accordingly, the 2nd respondent passed the proceedings in Na.Ka.No.27/2024/C1 dated 13.12.2024, rejecting the request of the petitioner to revoke the suspension order and to reinstate into service. Aggrieved by the same, the present writ petition has been filed.

5. The learned counsel for the petitioner would submit that the 2nd respondent while passing the impugned order dated 13.12.2024 failed to follow the instructions issued by the State Government in G.O.Ms.No. 81 Human Resources Management (N) Department dated 04.08.2022.

6. The learned counsel for the petitioner submits that the reason stated in the impugned order that till completion of the criminal case or investigation in the criminal case, the petitioner shall continue on suspension is illegal, unjust and contrary to the government instructions



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issued in the said Government Order and sought to set aside the same by allowing the writ petition.

7. The learned Standing Counsel appearing for the 2nd respondent would submit that the time limit mentioned in paragraph 11 of the said Government Order will not be applicable to the case against whom criminal proceedings have been initiated.

8. Having heard the submissions of the respective learned counsels and on careful consideration of the impugned order, it reveals that the instruction issued by the State Government in Paragraph No. 11(xi) of G.O.Ms.No.81 Human Resources Management (N) Department, dated 04.08.2022 are not strictly followed. It is provided that 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



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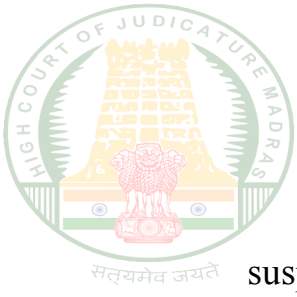
Servant in a non-sensitive post in consultation with the appropriate investigating authority/vigilance Commission on case to case basis in view of the reason that prolonged suspension and paying subsistence allowance for a long period without extracting work is not at all acceptable.

9. Admittedly, in the present case, the second respondent failed to consider these instructions properly. Mere pendency of criminal case is not a ground for not concluding the disciplinary proceedings or for not reviewing the suspension order. The competent authority has to act independently while dealing with the disciplinary proceedings. As such, in our considered view, the order impugned in this writ petition is un-sustainable under law and it is liable to be set aside.

10. For the reasons stated above, this writ petition is disposed of with the following directions:-

1. The order impugned in this writ petition is hereby set aside and the matter is remanded back to the second respondent to pass orders afresh.

2. The second respondent shall pass orders afresh by considering the representation of the petitioner to review the



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suspension order and post in any non-sensitive post taking into consideration of Paragraph No.11(xi) of G.O.Ms.No.81 Human Resources Management (N) Department, dated 04.08.2022 within a period of four weeks from the date of receipt of a copy of this order.

No costs.

Consequently, the connected miscellaneous petitions are closed.

25.03.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
rgm



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2. The Commissioner of Municipality,
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BATTU DEVANAND, J.

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