

W.P.(MD)No.8097 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 24.03.2025

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.(MD)No.8097 of 2025

K.Saravanakumar

... Petitioner

Vs.

1.The Director of Municipal Administration,
Municipal Administration Department,
Chennai – 600 028.

2.The Commissioner,
Keelakarai Municipality,
Ramanathapuram District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the first respondent to revoke the suspension of the petitioner by accommodating him in any non-sensitive post in the light of the Government order in G.O.M.S.No.81, Human Resources Management (N) Department dated 04.08.2022.

For Petitioner : Mr.R.Gowrishankar

For R1 : Mr.N.Satheesh Kumar
Additional Government Pleader



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ORDER

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This writ petition has been filed seeking a Mandamus directing the first respondent to revoke the suspension of the petitioner by accommodating him in any non-sensitive post in the light of the Government order in G.O.M.S.No.81, Human Resources Management (N) Department dated 04.08.2022.

2. The petitioner, who is working as a Accountant was kept under suspension, vide order of the second respondent, dated 09.01.2024 on certain allegations. A case in Crime No.1 of 2024 is registered against the petitioner and it is pending. The grievance of the petitioner is that the second respondent did not conduct any enquiry and did not revoke the suspension order till now. Because of the suspension order, the petitioner could not take care of the education and career of his children. He is the only breadwinner of his family. Because of the prolonged suspension order, the petitioner is facing great hardships. On 10.04.2024, the petitioner sent a representation to the second respondent and requested to revoke his suspension order, by following G.O.Ms.No.81 (Human Resources Development) dated 04.08.2022. Thereafter, the petitioner sent several reminders to the second respondent. However, the said representation was not considered by the second respondent. On 08.01.2025, he sent a representation to the first respondent requesting to revoke

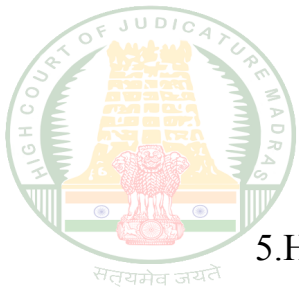


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his suspension order and that was also not considered. Aggrieved by the inaction of the respondents, the petitioner has filed this writ petition.

3. Based on the rulings of the Honourable Apex Court in various cases, particularly, *Ajay Kumar Choudhary Vs Union of India*, reported in (2015) 7 SCC 291, the learned counsel for the petitioner would submit that the currency of a suspension order should not be extended beyond three months and if the respondents intend to continue the suspension order, they have to pass a reasoned order for extension of the suspension order. But in the petitioner's case, the extension of suspension order is not passed.

4. The learned counsel further contends that in G.O.Ms.No.81(Human Resources Development) dated 04.08.2022, the Government issued certain instructions that if a Government servant has been suspended on disciplinary proceedings contemplated, such proceedings should be initiated immediately and finalized normally within a period of six months. It is not strictly followed by the respondents in the petitioner's case. Therefore, he sought to quash the suspension order, dated 09.01.2024 passed by the second respondent, by allowing the writ petition with a direction to the respondents to re-instate the petitioner in service.



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5. Heard the learned counsel for the petitioner, the learned Additional Government Pleader appearing for the first respondent and perused the materials placed on record.

6. The Honourable Supreme Court in ***Ajay Kumar Choudhary Vs Union of India***, reported in ***(2015) 7 SCC 291***, has held that the currency of a suspension order should not extend beyond three months, if within this period, the charge sheet is not served on the delinquent officer, even if the charge memo is served, a reasoned order should be passed for extension of the suspension. However, in the present case, the petitioner is under suspension since 09.01.2024 for more than one year and he has not been served with the charge memo. This issue has been considered by this Court in several occasions, in WP(MD)No.6982 of 2024, dated 10.04.2024, wherein, this Court has elaborately discussed the issue and held as under:-

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



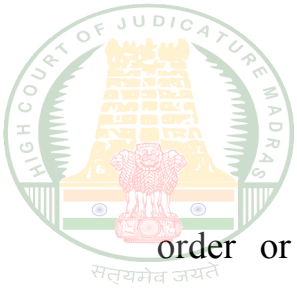
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allegation of rape has been made by a co-employee followed by a registration of a criminal case. It is held that merely because a charge sheet could not be submitted within a period of three months, order of suspension cannot be revoked with any consequential 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 respondent 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 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. By following the said order, the learned single judge of this Court in W.P.(MD)No.16022 of 2024, dated 18.07.2024 ordered for revocation of suspension order and directed the respondents therein to re-instate the petitioner therein in some non-sensitive post.

8. Considering the facts in this case that the petitioner is continued under suspension for more than one year without passing any extension of suspension



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order or without serving a charge memo, and also considering that the representation of the petitioner for revocation was not considered by the respondents, in the considered opinion of this Court, the action of the respondent is contrary to the instructions issued in G.O.Ms.No.81 (Human Resources Development) dated 04.08.2022 and against the settled principles of law. Accordingly, the order of suspension, dated 09.01.2024 issued by the second respondent is liable to be set aside with a direction to re-instate the petitioner into service and post him in some non-sensitive post.

9. Accordingly, this writ petition is allowed with the following directions:

1. The order of suspension dated 09.01.2024 issued by the second respondent is set aside.

2. The second respondent is directed to reinstate the petitioner into service and post him in non-sensitive post within a period of two weeks from the date of receipt of a copy of this order.

No costs.

24.03.2025

NCC:yes/no
Index:yes/no
Internet:yes/no
Sn



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BATTU DEVANAND, J.

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