



W.A(MD) No.626 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 20.08.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

W.A(MD) No.626 of 2020
and
C.M.P.(MD)No.2692 of 2021

- 1.The Commissioner / Director of Town and Country Planning,
No.807, Anna Salai,
Chennai-2.
 - 2.The Member Secretary,
Madurai Local Planning Authority,
Aringar Anna Mazhigai,
Madurai-625 020.
 - 3.The Member Secretary,
Madurai New Town Development Authority,
Aringnar Anna Mazhigai,
Madurai-625 020.
- ... Appellants / Respondents

Vs.

S.Titus ... Respondent / Writ Petitioner

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the Judgment dated 06.02.2020 in W.P.(MD)No. 616 of 2020 on the file of this Court.



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For Appellants : Mr.A.Kannan
Additional Government Pleader

For Respondent : Mr.T.Ramesh

JUDGMENT

(Judgment of the Court was made by **G.R.SWAMINATHAN, J.**)

Heard both sides.

2. The writ petitioner is holding the rank of Supervisory / Draughtsman in the Department of Town and Country Planning. He was implicated in a trap case. He was also arrested. That led to his suspension on 28.02.2018. The writ petitioner sought review of the suspension. His request was rejected vide order dated 26.12.2019. Challenging the order of suspension, as well as the order declining to review, W.P.(MD)No.616 of 2020 was filed. The learned single Judge vide order dated 06.02.2020 allowed the writ petition in the following terms:-

“2.The Hon'ble Apex Court in the aforesaid decision in Ajay Kumar Chowdery's case (supra) had laid down guidelines with regard



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to the prolonged suspension in which it was stipulated that the currency of the suspension order should not extend beyond the period of three months, if the memorandum of charge/ charge sheet is not served on the delinquent officer and in case memorandum of charge /charge sheet is served, reasoned order must be passed for the extension of the suspension.

3.In the instant case, though the impugned suspension order was passed on 28.02.2018, the guidelines stipulated under Ajay Kumar Chowdery' case (supra) has not been followed and there is no reasoned order on the part of the respondents with regard to the extension of the suspension order. In view of the guidelines stipulated by the Hon'ble Apex Court, this Court is of the view that the impugned suspension order cannot be sustained any further.

4.In the light of the above observations, the impugned order in R.C.No.4054/2018/K2 dated 28.02.2018 and the consequent order in R.C.No.4054/2018/K2 dated 26.12.2019 passed by the first respondent are set aside. Consequently, the respondents shall reinstate the petitioner back into service atleast within a period of one week from the date of receipt of a copy of this order. It is open to the respondents to transfer the petitioner to any other office, if the respondents may choose to do so. This Writ Petition is allowed accordingly.”

Aggrieved by the same, the department has filed this writ appeal.

3. The Hon'ble Full Bench decision rendered in W.P(MD)No.2165 of 2015 ([P.Kannan vs The Commissioner of Municipal Administration and Others](#)) dated 15.03.2022 had held as follows:-



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“18.It needs to be clarified that the provisions of the [Code of Criminal Procedure](#), 1973 would have no application to service jurisprudence and, accordingly, the judgment of the Apex Court in [Ajay Kumar Choudhary](#), supra, needs to be considered for its application. In such context, the Division Bench of this court in [Arignar Anna Sugar Mills Ltd.](#), supra, held that the law laid down by the Apex Court in the case of [Ajay Kumar Choudhary](#), supra, does not lay down any absolute proposition that order of suspension can never be extended beyond three months. Paragraphs 9, 10, 12, 18 and 19 of the judgment delivered by the Division Bench of this court in [Arignar Anna Sugar Mills Ltd.](#), supra, are quoted hereunder:

"9. We are of the view that [Ajay Kumar Choudhary](#) (supra) does not lay down any absolute proposition that an order of suspension should never extend beyond three months. In fact, in [Ajay Kumar Choudhary](#) (supra), the Supreme Court observed that the directions regarding the restriction on extension of a suspension order beyond three months would not apply as the appellant had been served with a charge sheet. The appellant had only been given the liberty to challenge his continued suspension in any manner known to law, if so advised, and it was clarified that the action of the respondents in continuing suspension would be subject to judicial review. In our view, the learned Single Bench erred in setting aside the suspension placing reliance on [Ajay Kumar Choudhary](#) (supra).

...

24. ... Inasmuch as the Apex Court in [Ajay Kumar Choudhary](#), supra, has not considered the earlier judgments of Constitution Benches of the Apex Court, the earlier judgments, delivered by Bench of larger strength would be binding on High Courts too and it cannot



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be said that the judgment in [Ajay Kumar Choudhary](#), supra, lays down absolute proposition of law on suspension, as what was held in paragraph (21) of the judgment was not applied in the said case itself in paragraph (22). It is despite the fact that charge-sheet therein was submitted much beyond the period of three months. ” Therefore, the very basis on which the order of the learned single Judge rests stands undermined.”

4. We therefore have to hold that the decision rendered in ***Ajay Kumar Choudhary*** was misapplied by the learned single Judge. In this view of the matter, the order dated 06.02.2020 is set aside.

5. It is seen that following the grant of interim stay in this writ appeal, the writ petitioner could not be reinstated. As already mentioned, the writ petitioner was suspended as early as on 28.02.2018. We are now in August 2025. Almost 7 ½ years have gone by. This definitely would amount to prolonged suspension. The learned counsel appearing for the respondent / writ petitioner draws our attention to the decision of the Hon'ble Supreme Court reported in **2022 SCC OnLine SC385** ([Kalyan Dombivali Municipal Corporation v. Sanjay Gajanan Gharat & Anr.](#)), Paragraph Nos.50 to 52 of the said order read as follows:-



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“50. Insofar as the prolonged suspension of the respondent No.1 is concerned, the respondent No.1 has relied on the judgments of this Court in the cases of [Ajay Kumar Choudhary](#) (supra) and State of Tamil Nadu represented by Secretary to Government (Home) v. Promod Kumar, IPS and Another¹⁰. Insofar as the judgment of this Court in the case of [Ajay Kumar Choudhary](#) (supra) is concerned, though this Court has deprecated the protracted period of suspension and repeated renewal thereof, in the facts of the said case, this Court found that since the appellant therein was served with a charge sheet, the direction issued in the said case may not be relevant to him any longer.

51. Insofar as the judgment of this Court in the case of Promod Kumar, IPS (supra) is concerned, this Court observed thus:

“24.There cannot be any dispute regarding the power or jurisdiction of the State Government for continuing the first respondent under suspension pending criminal trial. There is no doubt that the allegations made against the first respondent are serious in nature. However, the point is whether the continued suspension of the first respondent for a prolonged period is justified.”

52. In the said case, the respondent No.1 therein was suspended for more than six years. This Court found that no useful purpose would be served by continuing the respondent No.1 therein under suspension any longer.”

6. Even while allowing this writ appeal, we grant liberty to the writ



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petitioner to submit a fresh representation to the competent authority seeking review of the suspension. The competent authority will definitely bear in mind that more than 7 ½ years have lapsed and that no purpose will be served by continuing the suspension. An appropriate order shall be passed by the competent authority within a period of four weeks from the date of the receipt of the representation from the writ petitioner. The Writ Appeal is allowed. No costs.

7. The Writ Appeal is allowed on these terms. No costs.
Consequently, connected miscellaneous petition is closed.

(G.R.S., J.) (K.R.S., J.)
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