



W.A(MD)No.732 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 13.08.2025

CORAM

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

**W.A(MD)No.732 of 2020
and
C.M.P(MD)No.4254 of 2020**

1.The Additional Director General of Police,
Crime,
Chennai – 600 008.

2.The Superintendent of Police,
IPREC and NIBCID,
Chennai – 600 008.

... Appellants /
Respondents

Vs.

S.Murugesan

... Respondent /
Petitioner

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 12.10.2018 made in W.P(MD)No.21115 of 2018.

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

For Respondent : Mr.M.Saravanan for R.1



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JUDGMENT

WEB COPY (Judgment of the Court was made by **G.R.Swaminathan J.**)

The Police Department has filed this writ appeal challenging the order dated 12.10.2018 passed by the learned single Judge allowing W.P(MD)No. 21115 of 2018 filed by the respondent herein.

2.The respondent herein is holding the rank of head constable. When he was working in Intellectual Property Rights Enforcement Cell (IPREC), Virudhunagar unit, he was implicated in a trap case by Vigilance and Anticorruption Police. He was shown as A2 in Crime No.5 of 2018 on the file of Inspector of Police, V&AC, Virudhunagar District. He was placed under suspension vide order dated 22.02.2018 by the first appellant herein. Challenging the same, the aforesaid writ petition was filed.

3.The learned single Judge vide order dated 12.10.2018 quashed the suspension order and allowed the writ petition with a direction to reinstate the writ petitioner. Assailing the said order, this Writ Appeal has been filed.

4.The only ground on which the learned single Judge allowed the writ petition was that neither charge memo nor final report was filed within 90 days. According to the learned single Judge, the decision of the Hon'ble Supreme



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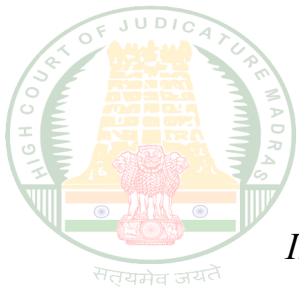
Court reported in **(2015) 7 SCC 291 (Ajay Kumar Choudhary Vs Union of**

India) would apply to the facts on hand.

5.The contours of the decision rendered in **Ajay Kumar Choudhary's** case had been delineated by the Madras High Court in several subsequent decisions. 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:

"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.



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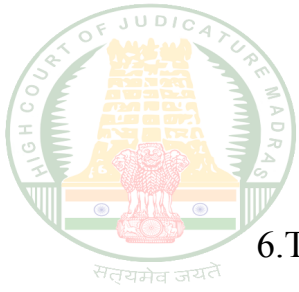
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In fact, in Ajay Kumar Choudhary (supra), the Supreme Court observed that the directions regarding the restriction on extension of a suspension order beyond three months would not apply as the appellant had been served with a charge sheet. The appellant 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 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.



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6. That apart, the learned single Judge if at all could have only directed the authority to revoke the suspension. The suspension order itself could not have been quashed or set aside. This is all the more so when the writ petitioner was shown as an accused in a vigilance case.

7. In this view of the matter, the order of the learned single Judge is set aside. It is seen that the writ appeal was entertained and interim stay was granted. As a result, the writ petitioner could not be reinstated in service. Now more than 7 ½ years have passed by. This *prima facie* may amount to prolonged suspension. We therefore permit the writ petitioner to submit a fresh representation to the authority concerned. On receipt thereon the continuance of suspension shall be reviewed and an order shall be passed within a period of four weeks thereafter.

8. This Writ Appeal is allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [K.R.S., J.]
13.08.2025

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