**(1917) 03 MAD CK 0045**

**In the Madras High Court**

V. A. Chellam Aiyar APPELLANT

Vs

Corporation Of Madras RESPONDENT

**Date of Decision :** 30-03-1917

**Acts Referred:**
Madras City Municipal Act, 1904 — Section 58

**Citation :** AIR 1918 Mad 710 : 42 Ind. Cas. 513 : (1917) 6 LW 284

**Hon'ble Judges :** John Wallis, C.J;Oldfield, J

**Bench :** Division Bench

## Judgement

1. This is an appeal from a judgment of Srinivasa Aiyangar, J., in a suit brought by the plaintiff against the Madras Corporation for wrongful dismissal.

2. The learned Judge held that the suit will not lie and we think he was right Section 58 of the Madras City Municipal Act III of 1904 empowers the President to appoint such subordinate officers and servants as the Corporation, subject to the control of the Local Government, consider necessary for the purposes of this Act," and Sub-section 3 provides that the President may, subject to such control as may be prescribed by the Local Government, fins, suspend, reduce or dismiss any of the said of the said officers and servants. Now it appears to be well settled that when an officer in the position of the President of the Madras Corporation is empowered'' by Statute to appoint and dismiss subordinate officers and servants, those officers and servants hold their office at pleasure. This was decided in the case of Smyth v. Latham. (1833 9 Bing. 692. and more recently in the case of Notley v. London County Council (1915) 3 K. B 580. The President''s power to dismiss under the section is made subject to such control as may be prescribed, by the Local Government''. It is not shown in this case that the Local Government has prescribed any control. A compilation styled the Madras Corporation Code has been drawn up for the Corporation, which contains rules as to the procedure to be adopted as regards the dismissal of servants of the Corporation rules which follow generally the rules for the dismissal of Government servants. These rules have not, however, been prescribed by

Government to be observed by; the Corporation in the matter of dismissal of the servants of the Corporation. When this Madras Corporation Code was sent up to Government with a report they did not think it necessary to take any action in regard to it. The position, therefore, simply is that the officers and servants of the Corporation hold office at pleasure and subject to dismissal by the President. There is a further provision enabling them to appeal from the President either to the Standing Committee or to the Corporation according to the amount of their salaries, and a provision that the decision of the Standing Committee or Corporation, as the case may be, shall be final. Independently of this last provision, we think that a Corporation servant thus holding office at pleasure who has been dismissed by the President has no cause of action against the Corporation. The general distinction between offices which are held during good behaviour or free-hold offices and offices which are held at pleasure has been explained in this Court in Thiru ambala Desikar v. Chinna Pandaram 84 Ind. Cas. 67, where the authorities are cited. As regards offices held at pleasure it is well settled that no notice or framing of charges is necessary to validate the dismissal. See Wright v. Marquis of Zetland (1908) 1 K. B. 68: 97 L. T. 867. and Shenton v. Smith (1895) A. C. 229: 64 L. J. P. C. 119: 72 L. T. 130. In the latter case it was held that though the Colonial Office had prescribed rules as to the dismissal of public servants somewhat similar to those which have been prescribed by the Government of India, yet that the non-observance of those rules would not render the dismissal of an officer holding? office at pleasure invalid or give him a cause of action. We may also refer to the recent decision in Ram Das Hazra v. Secretray of State for India (6) 16 Ind. Cas. 922. to the same effect, where it was held that, although the Government rules had not been observed, an officer holding during pleasure who had been dismissed had no cause of action against Government. Reference has also been made to the Civil Service Regulations, which were made applicable to the servants of the Corporation u/s 54 but only as regards regulating grant of pension and gratuities. We do not think that the Regulations so made applicable have any bearing on the present case. It has also been contended that under the Civil Service Regulations so made applicable the plaintiff has not forfeited his right to pension. This is not a suit to enforce any such claim and it is unnecessary to consider that question. Lastly, we may say that there is no question of malice in this case.

3. In the result the appeal fails and must be dismissed with costs.

 