

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2015

CORAM:

THE HONOURABLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HONOURABLE DR.JUSTICE P.DEVADASS

W.A.No.1638 of 2015

R.Maheswaran ... Appellant/Petitioner

Vs.

The Chief Secretary to
Government of Tamil Nadu,
Public (Special A) Department,
Fort St. George,
Chennai-9. Respondent/Respondent

Appeal filed under Clause 15 of the Letters Patent against the order passed by this Court dated 24.06.2015 passed in W.P.No.18183 of 2015. Writ petition under Art.226 of the constitution of India to issue a writ of certiorari/firmandamus calling for the records of the respondent in connection with the impugned order passed by him in Letter No. 100/2012-12 Public (Special-A) dated 27.03.2015 and quash the same and direct the respondent to reinstate the petitioner into service and grant him all consequential service and monetary benefits

For appellant : Mr.K.Venkataramani, SC
for Mr.I.Abrar Md. Abdullah

For Respondent : Mr.P.S.Sivashanmugasundaram, Spl.G.P.

JUDGMENT

(Judgment of the Court was made by SATISH K. AGNIHOTRI, J.)

This instant intra-court appeal is filed impugning the order dated 24th June, 2015 passed in W.P.No.18183 of 2015.

2 The appellant, who was the writ petitioner, questioning the correctness of the order dated 27th March, 2015 made in letter No.100/2012-12 Public (Special A), filed the writ petition, seeking a direction to revoke the order of suspension and to reinstate him into service and grant him all consequential service and monetary benefits.

3 The learned Single Judge, relying on a decision of a Division Bench of this Court in Chairman, TNEB and another Vs. S.Venkatesan¹, dismissed the writ petition. Thus, this appeal.

4 It is fairly stated by the learned Senior Counsel appearing for the appellant that charge sheet has been framed against the appellant for the offence under Sections 7, 13(2) read with Section 13(i)(d) of the Prevention of Corruption Act, 1988 and the learned Special Judge, Special Court for PC Act cases has taken cognizance of the same in Spl.C.C.No.3 of 2014. It is now submitted that even charges have been framed.

5 The learned Senior Counsel also relies on the observation of the Supreme Court made in Ajay Kumar Choudhary Vs. Union of India, through its Secretary and another², whereunder the Supreme Court, while examining the validity of the suspension order in respect of the disciplinary proceedings, held that for extension of suspension, a reasoned order must be passed and the employee cannot be kept in suspension forever on the ground that the enquiry is pending. However, in the facts of the case (Ajay Kumar Choudhary), the officer was served with the charge sheet and it was held that directions made in the matter may not be relevant to him any longer. The facts of this case is identical.

6 Indisputably, the petitioner was placed under suspension on 13th January, 2012. Thereafter, a serious charge under the provisions of Prevention of Corruption Act, 1988 was framed. The sanction to prosecute the petitioner was granted on 10th October, 2013. The petitioner made representations on 6th April, 2013 and 3rd December, 2014 for revocation of suspension and reinstatement into service, which was rejected on 19th December, 2014. One more representation was made on 23rd January, 2015 to review the order of suspension in the light of the guidelines issued in G.O.Ms.No.40, P&AR Department, dated 30th January, 1996, which was rejected by the impugned order dated 27th March, 2015.

7 The learned Senior counsel appearing for the appellant would contend that the object of G.O.Ms.No.40, dated 30th January, 1996 was not properly appreciated by the writ court, as the said G.O clearly provides that suspension cannot continue beyond six months / one year, wherein disciplinary action / investigation is pending and the same could not be completed within such time. In the case on hand, suspension order was passed in January, 2012. For the period of three years, no progress could be made and the petitioner /appellant is suffering on account of continuous suspension.

¹ (2014) 5 MLJ 769

² (2015) 7 SCC 291

8 We have examined the said G.O.Ms.No.40 dated 30th January, 1996. Clause 6(ix) of the said G.O clearly provides that the time limit mentioned will not be applicable to the case of the Government servant, against whom criminal proceedings have been initiated. Indisputably, if the investigation is not completed for six months / one year, suspension cannot be permitted to continue. But, in the case on hand, investigation is complete, sanction has been granted and charges have been framed. Thus, at this stage, the appellant is not entitled to the benefit of the G.O.Ms.No.40, as aforestated. The learned Single Judge has rightly considered all aspects of the matter while coming to the conclusion of not interfering with the impugned order. The order of the learned Single Judge is unexceptionable, just and proper, warranting no interference.

9 Resultantly, the writ appeal is dismissed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vvk

To

The Chief Secretary to Government of Tamil Nadu,
Public (Special A) Department,
Fort St. George,
Chennai-9.

+1cc to Mr.I. Abrar and Abdullah, Advocate, S.R.No.62657
+1cc to the Government Pleader, S.R.No.62894

TEJ(CO)
EU(15/12/2015)

WEB COPY

W.A.No.1638 of 2015