

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 6-7-2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.A. No.822 of 2015
M.P.No.1 of 2015

1. The State of Tamil Nadu,
rep.by its Secretary,
Highways & Minor Ports Department,
Fort St.George,
Chennai - 600 009.
2. The Chief Engineer (General),
Highways Department,
Chepauk,
Chennai - 600 005. ..Appellants/Respondents

Vs.

A. Prabhakaran ..Respondent/Petitioner

Writ Appeal preferred under Clause 15 of the Letters Patent as against the order dated 8.10.2009 passed in W.P.No.16210 of 2009. Petition presented under Art 226 of the constitution of India to issue a writ of certiorari calling for the records relating to the order made by G.O.No.61(3D) High Ways & Minor ports (HLI) Department dated 21.07.2009 of the first respondent and quash the same

For appellants : Mr.P.S.Sivashanmugasundaram,
Special Government Pleader

For Respondent : Mr.L.Chandrakumar

JUDGMENT

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

The writ petitioner/respondent herein while working as Junior Engineer at Gudalur Panchayat Union in Nilgiris District, on deputation from Highways Department, was placed under suspension on 15.7.2005 on the ground of detention in custody on 13.7.2005. After investigation, a charge sheet was filed on 14.2.2007 in the Court of District Sessions Judge-cum-Special Judge, Udhagamandalam, Nilgiris

District. Thereafter, by order dated 20.2.2009 the suspension of the writ petitioner was revoked and the writ petitioner was relieved from deputation to join the parent department, viz., Highways Department and accordingly he joined in the Highways Department at Salem on 23.2.2009.

2. Without there being any further development, the writ petitioner was again placed under suspension by order dated 21.7.2009 on the same ground of filing of charge sheet on 14.2.2007. There was no other material or further development necessitating placing of writ petitioner once again under suspension. Being aggrieved, the writ petitioner came up with the instant writ petition questioning the legality of the subsequent suspension order dated 21.7.2009.

3. The learned single Judge, considering all the facts of the case held as follows:

"6. Under Rule 17(e)(ii) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, mere pendency of a criminal case cannot be the ground for placing a person under suspension. Instead, public interest should also be involved. To put it otherwise, only in a case where a public interest would be seriously prejudiced, by allowing the officer to join duty, such a course to place him under suspension can be adopted.

7. But a perusal of the impugned order would go to show that except making a bald statement that public interest is involved, there is no other material on record to show that public interest is involved. The very fact that the suspension order was revoked earlier, as I have stated, would go to show that public interest would not be affected by allowing him to continue in service. Of course, it is true that the Government is not estopped from passing a second order of suspension. But, such a course can be adopted if only there are sufficient materials collected or if there are fresh circumstances arisen affecting public interest and warranting suspension."

Against the said order, the State has come up with the instant appeal.

4. The learned Special Government Pleader appearing for the State submits that suspension of the writ petitioner is justified in view of the provision under Rule 17(e)(1)(ii) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, as criminal case is pending trial.

5. We have considered the case from all angles. Particularly in the facts of the case, during pendency of the appeal, suspension of the writ petitioner was revoked by order dated 20.2.2009. Thereafter what made to issue subsequent suspension order, is missing in the suspension order dated 21.7.2009. It appears that there is no new material or new development, which necessitated issuance of second subsequent suspension order and as such we do not find any error in the order rendered by the learned single Judge. The writ appeal is therefore dismissed. No costs. Connected M.P.No.1 of 2015 is also dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vr

TO

1. The Secretary,
Highways & Minor Ports Department,
Fort St.George,
Chennai - 600 009.
2. The Chief Engineer (General),
Highways Department,
Chepauk,
Chennai - 600 005.

+ 1 cc to Mr.L. Chandrakumar, Advocate Sr.33535
+ 1 cc to Government Pleader Sr.34008

W.A. No.822 of 2015

TEJ(CO)
EU 15.07.15

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