

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.09.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.27289 of 2015  
and  
M.P.Nos.1 to 3 of 2015

M.Sekar .. Petitioner

Vs

1.The Executive Engineer,  
TWAD Board, Maintenance Division,  
Namakkal District, Namakkal.

2.V.Illangovan .. Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of certiorarified mandamus calling for the records relating to the impugned proceedings bearing No.10796/F.M.Sekar, O.A.,/EA-1/2014, dated 21.04.2014, of the first respondent herein, namely the Executive Engineer, TWAD Board, Maintenance Division, Namakkal District, Namakkal and the impugned charge memo proceedings bearing No.10796/Ne.o/2014 dated 16.6.2014, the first respondent herein namely the Executive Engineer, TWAD Board, Maintenance Division, Namakkal District, Namakkal and quash both the said proceedings and consequently direct the first respondent herein to reinstate the petitioner in service with immediate effect as Office Assistant in view of the impending retirement of the petitioner on reaching the age of superannuation on 31.06.2016.

For Petitioner .. Mr.K.S.Govindaprasad

For Respondents .. Ms.S.Thamizh Arasi for R1

ORDER

By consent, the writ petition itself is taken up for final disposal.

2.The petitioner, while working as Office Assistant in the services of the first respondent, was arrested on 19.04.2014 in connection with the case in Crime No.261 of 2014 registered by Puduchathiram Police Station for the alleged commission of the offence punishable under Section 379 (Non-professional) of I.P.C. The allegation levelled against the petitioner is that he has purchased water, which has been clandestinely removed from Mohanur Water Project. The petitioner was placed under suspension on account of his arrest and he continues to be kept under suspension. The petitioner has also submitted a representation dated 29.01.2015 praying for revocation of the order of suspension and since no response is forthcoming, came forward to file this writ petition.

3.Learned counsel appearing for the petitioner would submit that the allegations levelled against the petitioner are wholly false and concocted and he was also enlarged on bail by the jurisdictional Magistrate Court on 05.05.2014 and since he is going to retire on 31.06.2016, the order of suspension passed against him may be revoked and he may be reinstated in service and posted in a non- sensitive post.

4.Per contra, Ms.S.Thamizh Arasi, learned counsel, who accepts notice on behalf of the first respondent, would submit that since the petitioner was arrested and incarcerated for more than 48 hours, his suspension is to be treated as deemed suspension and unless and until it is revoked by the concerned authority, the petitioner cannot make out any grievance and he has now been paid 75% subsistence allowance.

5.In response to the said submission, the learned counsel appearing for the petitioner has placed reliance upon the judgment of the Honourable Apex Court in Ajay Kumar Choudhary Vs. Union of India through its Secretary and Another (2015 (7) SCC 291), which laid down the proposition that whether the order of suspension is to be reviewed within three months period and in the event of any charge memo issued to the delinquent, then the concerned authority has to record the reasons as to the continuation of the period of suspension and hence prays for appropriate orders.

6.This Court has carefully considered the rival submissions and perused the materials placed before it.

7.Though the petitioner prayed for a larger relief, this Court, in the light of the facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the first respondent to consider and dispose of the petitioner's representation dated 29.01.2015 in accordance with law after taking note of the judgment of the Honourable Apex Court in Ajay Kumar Choudhary Vs. Union of India through its Secretary and Another (2015 (7) SCC 291) and pass orders within a period of six weeks from the

date of receipt of a copy of this order and communicate the decision taken, to the petitioner. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar

True Copy

Sub Assistant Registrar

mmi

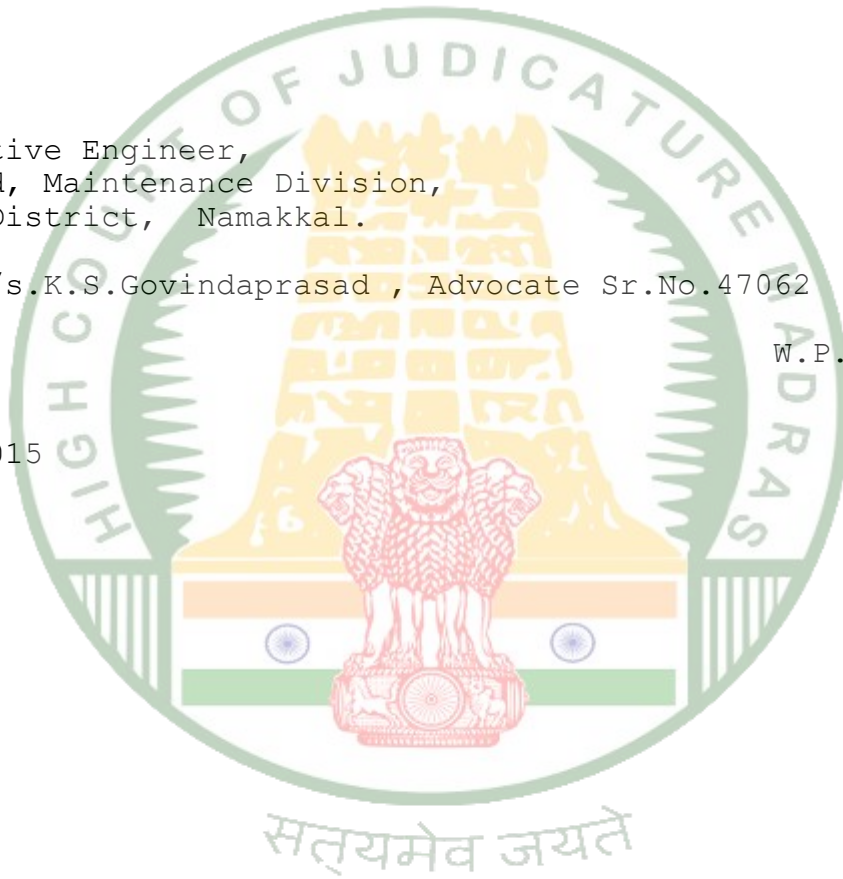
To

The Executive Engineer,  
TWAD Board, Maintenance Division,  
Namakkal District, Namakkal.

1 cc to M/s.K.S.Govindaprasad , Advocate Sr.No.47062

W.P.No.27289 of 2015

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