

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.27668/2016 & WMP.No.23835/2016

V.Selvaraj .. Petitioner

Vs.

1.The Chairman
Tamil Nadu Electricity Board
[TANGEDCO], Anna Salai
Chennai – 2.

2.The Chief Engineer
Tamil Nadu Electricity Board
[TANGEDCO], Vellore.

3.The Superintending Engineer
Tamil Nadu Electricity Board
[TANGEDCO], Krishnagiri District-2.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India
praying for issuance of a Writ of certiorari calling for the records
relating to the 3rd respondent dated 27.07.2016 vide Memo
No.411/SE/Adm.1/A-3/F.DP/2016 and to quash the same.

For Petitioner : Mr.S.Vijayakumar

For Respondents : Mr.Fakkir Mohideen

ORDER

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

2 The petitioner while serving as Assistant Engineer Grade I / 110 KVSS, Kempatti, Krishnagiri District, was involved in the commission of the offences punishable u/s.7 and 13[2] read with 13[1][d] of the Prevention of Corruption Act, 1988 and the case, after investigation, has culminated into a charge sheet, which was taken on file in CC.No.60/2008 on the file of the Court of Special Judge for Trial of Prevention of Corruption Act / Chief Judicial Magistrate, Krishnagiri and vide judgment dated 30.06.2016, the petitioner was convicted u/s.7 of the Prevention of Corruption Act, 1988 and was sentenced to undergo six months rigorous imprisonment and to pay a fine of Rs.1000/- with a default sentence of one month simple imprisonment and in respect of the commission of the offence u/s.13[2] read with 13[1][d] of the Act, the petitioner was sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.1000/- with a default sentence of one month simple imprisonment. The petitioner challenging the said conviction and sentence passed by the Trial Court, filed an appeal in CA.No.498/2016 before this Court and obtained suspension of the substantive sentence of imprisonment alone subject

to certain conditions vide order dated 12.07.2016 made in CrI.MP.No.7266/2016.

3 The petitioner was issued with the impugned show cause notice by the 3rd respondent calling upon him to offer explanation as to why he should not be dismissed from the service, in the light of the above conviction and sentence and challenging the legality of the same, the petitioner came forward to file the present writ petition.

4 Mr.S.Vijayakumar, learned counsel for the petitioner has drawn the attention of this Court to the impugned show cause notice and would submit that admittedly, the 3rd respondent has pre-determined the issue and reached the conclusion to dismiss the petitioner from service overlooking the fact that challenging the conviction and sentence passed by the Trial Court, CA.No.498/2016 is pending on the file of this Court and would further submit that in similar facts and circumstances, this Court had entertained WP.Nos.33248/2005, 473/2006, 6232/2013 and 22480/2016 and granted interim orders staying of further proceedings of the impugned show cause notices and therefore, prays for similar orders.

5 Per contra, Mr.Fakkir Mohideen, learned Standing counsel appearing for the respondents would contend that since the petitioner has been convicted and he has obtained only the suspension of substantive sentence of imprisonment alone, the 3rd respondent is entitled to issue the show cause notice and also spelt the reasons for doing so and therefore, prays for dismissal of the writ petition.

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

7 Admittedly, the petitioner has been convicted for the commission of the offences involving moral turpitude and though the petitioner has obtained suspension of sentence of imprisonment alone, has failed to obtain stay of the said conviction and as such, the stigma of conviction is still attached to the petitioner. It is a well settled position of law that unless the stigma of conviction is set aside in the appeal filed by the petitioner in CA.NO.498/2016, it remains and as such, the 3rd respondent, by invoking section 8[c] of the Tamil Nadu Electricity Board [Discipline and Appeal] Rules read with Letter No.057541/DP.6/A1/91-31, Administrative Branch, dated 18.09.2015, is having jurisdiction to issue the show cause notice and it cannot be

faulted with.

8 However, taking into consideration the submission made by the learned counsel for the petitioner, the petitioner is at liberty to submit his response to the show cause notice within a period of two weeks from the date of receipt of a copy of this order and the 3rd respondent upon receipt of the same, is directed to consider and dispose of the same within a further period of four weeks thereafter and communicate the decision taken, to the petitioner.

9 The writ petition stands disposed of with the above direction. The interim order granted by this Court, is vacated and the miscellaneous petition is closed. No costs.

20.12.2016

Index : No
Internet : Yes

AP

M.SATHYANARAYANAN, J.,

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