

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2016

CORAM

THE HON'BLE Mr. JUSTICE M.SATHYANARAYANAN

W.P.No. 41682 of 2016

and

W.M.P.No.35663 of 2016

M.Muralidharan

...Petitioner

-Vs-

The Chairman,
TamilNadu Pollution Control Board,
No.76, Mount Salai,
Guindy,
Chennai - 600 032

...Respondent

This petition is filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the respondent dated 04.02.2015 vide Proc.No.TNPCB/Per/CS/03810/2014-3 and consequential Extension of suspension order dated 11.08.2016 vide Proc.No.TNPCB/Per/CS/03810/2015-2 to quash the same with consequential direction to the respondent to re-instate the petitioner with immediate effect into the service of the respondent in any place.

For Petitioner : Mr.S.Kumara Devan
For Respondent : Mrs.Rita Chandrasekar

O R D E R

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

2. The petitioner is employed as District Environmental Engineer, Vellore. The allegation levelled against him is that due to the irregularities and slackness in monitoring and inspection of M/s. Ranipet SIDCO Finished Leather Effluent Treatment company Ltd., Phase-I, the sludge in slurry form stored in the unauthorized concrete tank constructed connecting to the SLF in Common Effluent Treatment Plant, got collapsed on the southern side, resulting in episodal discharge of slurry into the premises of an adjacent tannery of M/s.ARKAY Leathers Pvt. Ltd. and caused death of 10 workers. In this regard, the Sipcot Police registered a case in Crime No.35 of

2015 for the alleged offence under sections 337, 285 and 304(2) IPC. Later on, the investigation was transferred to the file of CBCID and the petitioner was arrested and remanded to judicial custody on 30.03.2015 and was enlarged on bail on 27.04.2015.

3. The respondent, vide proceedings dated 04.02.2015, taking into consideration of the fact that enquiry into grave charges is contemplated, thought it fit to place the petitioner under suspension invoking Rule 8(2) of Tamil Nadu Pollution Control Board (Disciplinary and Appeal) Regulations, 2010. Subsequently, the respondent vide proceedings dated 11.08.2016, has taken note of the letter dated 26.04.2016 in Letter (MS) No.43/N/2015-3 thought it fit to extend the period of suspension until further orders. Making a challenge to the order of suspension as well as the extension period of suspension order, the petitioner came forward to file this writ petition.

4. Mr.S.Kumara Devan, learned counsel appearing for the petitioner has drawn the attention of this Court to the judgment rendered by the Honourable Supreme Court reported in 2015 (3) CTC 119 (Ajay Kumar Choudhary v. Union of India) and would submit that as per the said decision, it has been made clear that the currency of suspension order should not extend beyond three months, if within the period, the memorandum of charges/ charge sheet is not served and it is also made clear that a reasoned order must be passed for extension of the suspension. He further invited the attention of the Court to the order dated 19.09.2016 made in W.P.No.26606 of 2015 (K.Selvamani vs. State of Tamilnadu represented by the Principal Secretary, Home (Pol.-2) Department, Chennai-9) as well as another order dated 21.09.2016 made in W.P.No.37322 of 2015 (R.Manivel vs. The Chairman, Tamil Nadu Electricity Board Chennai-2). In the light of the authoritative pronouncement of the Supreme Court followed in the above cited order, the original order of suspension as well as the order of extension period of suspension are liable to be quashed and prays for appropriate orders.

5. Per contra, Mrs.Rita Chandrasekaran, learned standing counsel appearing of the Tamil Nadu Pollution Control Board has drawn the attention of the Court to the counter affidavit and would submit that based on the above cited judgment rendered by the Honourable Supreme Court of India, Personnel and Administrative Reforms (N) Department, Government of Tamilnadu, issued a letter dated 23.07.2015 directing as follows:

"(i) The Currency of suspension order should not extend beyond three months if within this period the Memorandum of charges/ Charge sheet is not served on the delinquent officer/employee.

(ii) If the Charges/ Charges sheet is

served a reasoned order must be passed for the extension of the suspension."

Subsequently, a clarification has been issued by the very same department by letter dated 26.04.2016 and as such the original order of suspension as well as the order extending the period of suspension cannot be quashed and prays for dismissal of the same.

6. This Court paid its best attention to the rival submissions and perused the materials placed on record.

7. As per the ratio laid down by the Honourable Supreme Court in the above cited judgment, the currency of the suspension order should not be extended beyond three months and within the said period, if charge sheet is not served on the concerned official and even if the charges sheet is served, a reasoned order must be passed for the extension of the period of suspension.

8. The respondent, taking note of the letter of the Personnel and Administrative Reforms (N) Department dated 23.07.2015 and the clarification issued dated 26.04.2016, has passed an order of extension of suspension period on the ground that the time limit of three months of suspension is applicable only to the cases of suspension arising out of Departmental inquiry and the inquiries pertaining to non-vigilance and non criminal cases.

9. Be that as it may, it is open to the petitioner herein to submit a representation for revoking the order of suspension to the respondent within a period of two weeks from the date of receipt of a copy of this order and the respondent, on receipt of the same is directed to consider the said representation on merits and in accordance with law and pass orders within a period of four weeks thereafter and communicate the decision taken to the writ petitioner. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

To

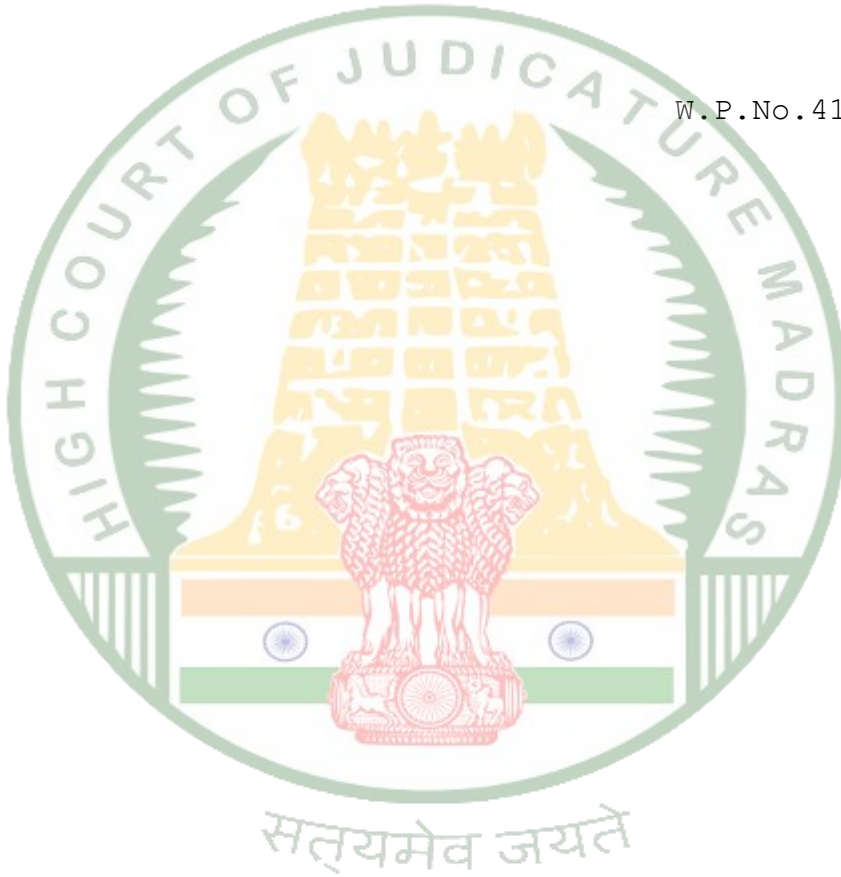
The Chairman,
TamilNadu Pollution Control Board,
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Guindy,
Chennai - 600 032

+1 cc to Mr.S.Kumaradevan, advocate, sr.72294

+1 cc to Mrs.Rita Chandrasekaran, advocate, sr.72321.

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