

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2017

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.17 of 2017
and
C.M.P.No.226 of 2017

- 1.The Chairman,
Tamil Nadu Electricity Board,
Nadippisai Pulavar K.R.Ramasamy Building,
No.144, Anna Salai, Chennai-600 002.
- 2.The Chief Engineer-Personnel,
Tamil Nadu Electricity Board,
Nadippisai Pulavar K.R.Ramasamy Building,
No.144, Anna Salai, Chennai-600 002.
- 3.The Chief Engineer-Distribution,
Coimbatore Region,
Tamil Nadu Electricity Generation and
Distribution Corporation Ltd.,
Coimbatore-641 012.
- 4.The Superintending Engineer,
Coimbatore Electricity Distribution Circle/Metro,
Tamil Nadu Electricity Generation and
Distribution Corporation Ltd.,
Coimbatore-641 012. ... Appellants/Petitioners

सत्यमेव जयते
-vs-

- 1.R.Manivel
- 2.The Inspector of Police,
Vigilance and Anti Corruption Wing,
Goundampalayam,
Coimbatore-641 030. ... Respondents/Respondents

Appeal filed under Clause 15 of the Letters Patent, against the order passed by this Court in W.P.No.37322 of 2015 dated 21.09.2016.

WP.37322 of 2015 Prayer:Writ of Certiorarified mandamus to call for the records culminating in the Impugned Order dated 17.10.2015 bearing Ref.No.Ku.Aanai No.018508/696/Ni.Bi 2(4)/2015

which is the culmination of the Order dated 05.06.2015 bearing Ref.No.Ku.A.No.10169/321/Ni.Bi 2(4)/2015 and Quash the same and direct the Respondents 1 to3 reinstate the Petitioner in service.

For Appellants :: Mr.K.Venkataramani, Addl.Advocate General
for Mr.P.R.Dhilipkumar

For Respondents :: Mr.M.Aravind Subramaniam for R1
Mr.P.S.Sivashanmugasundaram, Spl.GP for R2

JUDGMENT

(Judgment of the Court was delivered by
HULUVADI G.RAMESH, J.)

This writ appeal has been filed against the order passed by this Court in W.P.No.37322 of 2015 dated 21.09.2016.

2.The first respondent joined the services of the Tamil Nadu Electricity Board in the year 1989 as Technical Assistant and he was reporting to the Assistant Engineer-Maintenance of 110/11kV Sub-Station, Coimbatore. His service was regularised with effect from 04.10.1990. A criminal case was registered against the first respondent in the year 2016 by the Directorate of Vigilance and Anti Corruption under Section 7 of the Prevention of Corruption Act and thereafter he was released on bail. Subsequently, he was placed under suspension by the third appellant, by order dated 05.06.2015. On 17.10.2015, an order was passed by the Department refusing to revoke the suspension, on the representation made by the first respondent. Challenging the said order, a writ petition was preferred in W.P.No.37322 of 2015 and this Court, by order dated 21.09.2016, allowed the writ petition by setting aside the order rejecting to revoke the suspension as well as the suspension order. A direction was also issued to post the first respondent in any non-sensitive post where the Department feels that he could be accommodated.

3.Challenging the said order passed in the writ petition, the present appeal has been by the Department.

4.The learned Additional Advocate General appearing for the appellants has submitted that the learned single Judge ought not to have found that the Policy and the Service Rules of the appellant-Electricity Board have no provisions to accommodate the suspended persons, particularly in cases where corruption is involved. It is also his submission that since the appellant-Department had not violated any of the norms and had not acted in a biased manner towards the first respondent, the order passed by the learned single Judge quashing the suspension order is not in accordance with law and hence the same has to be set aside.

5.The learned counsel for the first respondent has submitted that the first respondent has been kept under suspension for a very long period. In this respect, he relied on the decision of the Hon'ble Supreme Court in Ajay Kumar Choudhary v. Union of India, reported in (2015) 7 SCC 291, and submitted that suspension of an employee is injurious to his interests and must not be continued for an unreasonably long period; 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; if the memorandum of charges / charge sheet is served, a reasoned order must be passed for extension of the suspension. Stating so, he prayed that the impugned order passed by the learned single Judge has to be confirmed and the appellants have to be directed to place the first respondent in a non-sensitive post, as ordered by the learned single Judge in the writ petition. He further submitted that in this regard, the case is pending trial before the Special Court for cases under the Prevention of Corruption Act, Coimbatore in S.P.C.No.5 of 2017.

6.We have heard the learned Special Government Pleader appearing on behalf of the second respondent as well.

7.It is seen from the materials placed on record that the first respondent had demanded and obtained a sum of Rs.10,000/- for carrying out his official work of providing electricity service connection, from one P.Baladhandapani on 03.06.2015. It is also seen that the first respondent has been under suspension from 05.06.2015. It is the contention of the learned counsel for the first respondent that the Department is not cooperating for early completion of the trial and in such circumstances, the first respondent may be placed in a non-sensitive post, as ordered by the learned single Judge in the writ petition. We find that even though two years have elapsed from the date of suspension, no proper steps have been taken by the appellant-Department with the Trial Court for completing the trial. In this connection, the learned Additional Advocate General appearing for the appellant-Department has submitted that charge sheet has been filed before the Trial Court and date has been fixed for commencement of the trial.

8.In the above stated circumstances, this Court is of the considered view that keeping the first respondent idle for a very long period, on the ground that trial has not been completed, is not in accordance with the law laid down by the Hon'ble Supreme Court in Ajay Kumar Choudhary's case (cited supra). Hence, this Court deems it fit to direct the appellant-Department to cooperate with the Special Court for cases under the Prevention of Corruption Act, Coimbatore, for early completion of the trial in S.P.C.No.5 of 2017 and the trial Court is directed to complete the trial within a period of three months from the date of receipt of a copy of this judgment. The appellant-Department shall consider and post the first

respondent in a non-sensitive post after looking into the progress being made.

9.The writ appeal is disposed of accordingly. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

KM

To

- 1.The Chairman,
Tamil Nadu Electricity Board,
Nadippisai Pulavar K.R.Ramasamy Building,
No.144, Anna Salai, Chennai-600 002.
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Distribution Corporation Ltd.,
Coimbatore-641 012.
- 5.The Inspector of Police,
Vigilance and Anti Corruption Wing,
Goundampalayam, Coimbatore-641 030.

Copy To

The Special Judge, Special Court for cases,
Under the prevention of Corruption Act,
Coimbatore.

+2cc to Mr.M.Aravind Subramaniam, Advocate, S.R.No.75482

+1cc to the Government Pleader, S.R.No.75681

W.A.No.17 of 2017

and

C.M.P.No.226 of 2017

RV(CO)

GN(06/11/2017)

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