

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.884 of 2014

S.Deenadayalan

... Petitioner

Vs.

1.The Chairman,
Tamil Nadu Generation and
Distribution Corporation Limited,
No.800, Annasalai,
Chennai - 02.

2.The Superintending Engineer,
Cuddalore Elec. Distn. Circle,
Capper Hills/Cuddalore - 04.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to impugned order passed by the second respondent Memo No.01015/Adm 1/A3/F.DP/2010 dated 29.12.2010 and quash the same and consequently direct the respondent to allow the respondent to revoke the suspension order and allow the consequential benefits accordingly.

For Petitioner : Mr.V.Krishnamoorthy

For Respondents: Mr.M.Fakkir Mohideen

सत्यमेव जयते
O R D E R

The order of suspension issued by the second respondent dated 29.12.2010 is under challenge in this writ petition.

2.On a perusal of the impugned order dated 29.12.2010, the petitioner was placed under suspension on the ground that a grave charges against the petitioner is contemplated.

3.The learned counsel appearing for the petitioner made a submission that after passing the impugned order of suspension on 29.12.2010, there was no progress in the Departmental Disciplinary Proceedings and the writ petitioner is continuing

in suspension for the past about seven years.

4.The learned counsel appearing for the respondents states that a criminal case is pending against the writ petitioner under the provisions of the Prevention of Corruption Act and the Disciplinary Proceedings were not progressed, on account of the pendency of the criminal case before the competent Court.

5.However, this Court is of the opinion that a mere pendency of the criminal case is not a bar for the authority to proceed with the Disciplinary Proceedings under the Discipline and Appeal Rules. Simultaneous proceedings are permissible and the only point is to be taken into account by the Competent Authorities is that if, the facts and the allegations against the delinquent officials are capable of proceeding with the Departmental Disciplinary Proceedings. Then the same need not be kept in abeyance. In other words if the documents, files and list of witnesses are available in respect of the allegations set out against the writ petitioner, then, it is left open to the Competent Authorities to frame charges and conduct enquiry and take a final decision in the Departmental Disciplinary Proceedings.

6.Contrarily, if an employee is placed under suspension for an unspecified period, without any progress, certainly, it will cause prejudice to the Delinquent Employees as well as cause monetary loss to the public exchequer. If an employee is paid subsistence allowance for years together without extracting any work, such a payment of huge amount of subsistence allowance for years together without extracting any work will cause great financial loss to the public exchequer. The Competent Authorities have no authority to waste the public money in this way and every authority is bound to be vigilant, in respect of the payment of public money in all such type of cases.

7.Competent Officials of the State as well as the Departments are the custodians of the tax payers money and they have got every duty to protect the public money and spend the same judiciously and in accordance with law. A public official wasting the tax payers money is committing misconduct and it is necessarily that such officials are also to be booked under the Discipline and Appeal Rules. The money of the tax payers are spend by the public officials without considering the circumstances and other aspects. In view of the fact that the writ petitioner is under suspension for the past more than seven years and there is absolutely no progress in the Departmental Disciplinary Proceedings.

8.This Court is of the opinion that the authorities are at liberty to continue the Departmental Disciplinary Proceedings or

they should take a decision that the same should be kept in abeyance. Then, they have to reinstate the petitioner and post him in a non-sensitive post and after completion of the criminal case, they can proceed, in accordance with law. Thus, it is made clear that the Competent Authorities are bound to take a decision in respect of the continuance of the Disciplinary Proceedings and conclude the same, in accordance with law or kept in abeyance of the Disciplinary Proceedings till the criminal case is over.

9. In any event, in the case on hand, there is no progress in the Disciplinary Proceedings for the past about seven years and therefore, this Court is inclined to consider the relief sought for in this writ petition. Accordingly, the impugned order of suspension issued by the second respondent in memo No.01015/Adm 1/A3/F.DP/2010 dated 29.12.2010 is quashed and the respondents are directed to reinstate the petitioner and post him in any one of the non-sensitive post during the pendency of the criminal case.

10. Accordingly, the Writ Petition stands allowed. However, there is no order as to costs.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

1. The Chairman,
Tamil Nadu Generation and
Distribution Corporation Limited,
No.800, Annasalai,
Chennai - 02.

2. The Superintending Engineer,
Cuddalore Elec. Distn. Circle,
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+1cc to Mr.V.Krishnamoorthy, Advocate SR.No.75916

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PPA (CO)
GN(29/11/2017)