

IN THE HIGH COURT OF JUDICATURE AT MADRAS**Dated : 01-08-2017****Coram****The Hon'ble Mr.Justice S.M.SUBRAMANIAM****Writ Petition No.5911 of 2017
and
W.M.P.No.6327 of 2017**

B.Vignesh

...Petitioner

Vs.

1. The Superintendent of Police
Railways,
Ponmalai, Trichy.
2. The Inspector of Police
Nagapattinam Railway Police Station
Nagapattinam.
3. The Inspector of Police
Koradacherry Police Station
Thiruvavarur District.

...Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records relating to the impugned order of the first respondent dated 11.01.2017 in his proceedings D.O.No.16/2017 in C.No.F.1/0539/2017 and to quash the same, consequently directing the 1st respondent to re-instate the petitioner in service with all monetary benefits.

For Petitioner : Mr.C.Prabakaran

For Respondents : Mr.K.Dhananjayan
Special Government Pleader

ORDER

By consent, the main writ petition itself is taken up for final hearing at the admission stage itself.

2. The order of suspension dated 11.01.2017 is under challenge in this writ petition. The writ petitioner is holding the post of Grade-II Constable and working at Nagapattinam Railway Police Station. On account of his involvement in a criminal case in Koradachery Police Station, a case was registered in Crime No.405/2016 under section 294(b), 352, 342, 3(1)(r), 3(2)(va) & 147 IPC SC/ST Amendment Act 2015. The writ petitioner is arrayed as Accused No.3 in the criminal case. On account of the criminal case, departmental disciplinary proceeding were initiated and the petitioner was placed under suspension by the impugned order.

3. The learned counsel for the writ petitioner contended that in similar circumstances, this Court considered a case in W.P.No.3052 of 2005 and granted relief in favour of the petitioner therein. In the above said order this Court has made an observation

as under:-

"As rightly pointed out by the learned counsel for the petitioner, mere involvement in a criminal case by a public servant, cannot be a ground at all for placing him under suspension. It is for the authority to analyse various facts and materials available so as to assess independently as to whether the continuation of public servant on duty without an order of suspension shall be to the detriment of the interest of public or not. If only, the authority comes to such a conclusion that an order of suspension is necessary in the public interest, then the authority can pass such an order of suspension. A plain reading of the order under challenge in this writ petition would go to show that there was no such conclusion arrived at by the authority....."

The above finding was made by this Court considering the facts and the circumstances of that particular case. This Court has to consider the legal principles in this regard along with the facts and the circumstances of the case on hand.

4. A public servant may be placed under suspension on

contemplation of charges, complaint, pendency of criminal charges etc. If a prima facie ground is made out in any complaint against a public servant, that is sufficient to place an employee under suspension on initiation of the disciplinary proceedings under the Discipline and Appeal Rules. The very object of suspension of a public servant is by virtue of his position as a public servant, he should not be allowed to continue in Office when disciplinary proceedings are initiated against him and there will be a possibility of influencing the witnesses or tampering the records with regard to the allegations. Such being the object of placing an employee under suspension, it is not necessary that an employee should be placed under suspension only after conducting an enquiry. In other words, conducting an enquiry need not be a pre-condition for placing an employee under suspension.

5. The Honourable Supreme Court and the High Courts have repeatedly held that suspension is not a punishment and in the event of proving innocence by the delinquent officials, all the benefits to be granted, as if, such an employee was not placed under suspension. Only at the time of facing the final orders, the Disciplinary Authority may deal with the period of suspension, either as punishment or otherwise.

6. Thus, suspension can never be construed as a punishment. In the case on hand, the Criminal case was registered against the writ petitioner and accordingly, departmental disciplinary proceedings are initiated. Thus, an order of suspension is inevitable on the facts of the case in view of the registration of Crime No.405 of 2016.

7. Under the Government Servants Conduct Rules, the public servants have to maintain good conduct and discipline both inside the office and outside. A public servant enjoys a special status in the society and by virtue of that status they have to maintain absolute integrity and discipline throughout **24X7=365 days**. Thus the conduct of a public servant is to be maintained throughout, and any breach will provide a cause for the competent authorities to initiate disciplinary proceedings under the Disciplinary and Appeal Rules. Such being the principles laid down by the Constitutional Courts, time and again there is no legal grounds raised in this writ petition to consider the case of the writ petitioner. In this view of this matter no consideration needs to be shown on the suspension order

S.M.SUBRAMANIAM, J.

jer/Svn

impugned in this writ petition.

8. Accordingly, the writ petition stands dismissed. However no order as to costs. Consequently connected miscellaneous petition is closed.

01-08-2017

Speaking Order/Non-Speaking Order

Index : yes/no

Internet: Yes/No.

jer/Svn

To

1. The Superintendent of Police
Railways,
Ponmalai, Trichy.
2. The Inspector of Police
Nagapattinam Railway Police Station
Nagapattinam.
3. The Inspector of Police
Koradacherry Police Station
Thiruvarur District.

**Writ Petition No.5911 of 2017 &
W.M.P.No.6327 of 2017**