

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08-08-2017

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.11822 of 2015
and
MP Nos.1 and 2 of 2015

K.Rajendran

.. Petitioner

vs.

The Executive Engineer,
WRO/PWD Lower Pennaiyar
Basin Division,
Villupuram.

.. Respondent

This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records of the respondent relating to Pro.No.2769/2006/ADI dated 13.12.2006, quash the same and issue consequential directions to the respondent to reinstate the petitioner in service with all attendant benefits.

For Petitioner : Mr.R.Thamaraiselvan

For Respondent : Mr.S.Gunasekaran,
Additional Government Pleader.

O R D E R

The order of suspension issued by the respondent in proceedings dated 13.12.2006 is under challenge in this writ petition.

2. The learned counsel appearing for the writ petitioner contended that the writ petitioner is holding the post of Assistant and on account of certain allegations regarding registration of a criminal case, he was placed under suspension in proceedings dated 13.12.2006. For the past about 11 years, the writ petitioner is under suspension and the criminal case instituted is still pending for the past 11 years.

3. Keeping an employee under suspension for a prolonged period is bad in law. An employee under suspension is entitled for subsistence allowance at the rate of 50% initially and thereafter 75% at the discretion of the Competent Authorities. Paying the subsistence allowance without extracting work will cause loss to the public exchequer and it is not preferable. An employee under suspension is not entitled to undertake any other job during the course of suspension. So keeping him idle will also become a national waste and it is preferable to reinstate him and post him in any one of the non-sensitive post and by extracting work from the writ petitioner, salary can be paid and the departmental disciplinary proceedings and the criminal case proceedings may go on simultaneously against the writ petitioner.

4. Pendency of criminal case is not a bar for departmental disciplinary proceedings and the departmental proceedings initiated by issuing the suspension order may be continued against the writ petitioner

by framing the charge memo based on the materials available on record with the department and thereafter an enquiry may be conducted and final decision is to be taken. However, placing the writ petitioner under suspension for an unspecified period is unwarranted, instead the disciplinary proceedings may be proceeded with by posting the writ petitioner in a non-sensitive post.

5. Thus, this Court is of the opinion that the order of suspension issued on 13.12.2006 is liable to be quashed and accordingly, the same is quashed. The writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

08-08-2017

Speaking Order/Non-Speaking Order.

Index : Yes/No.

Internet : Yes/No.

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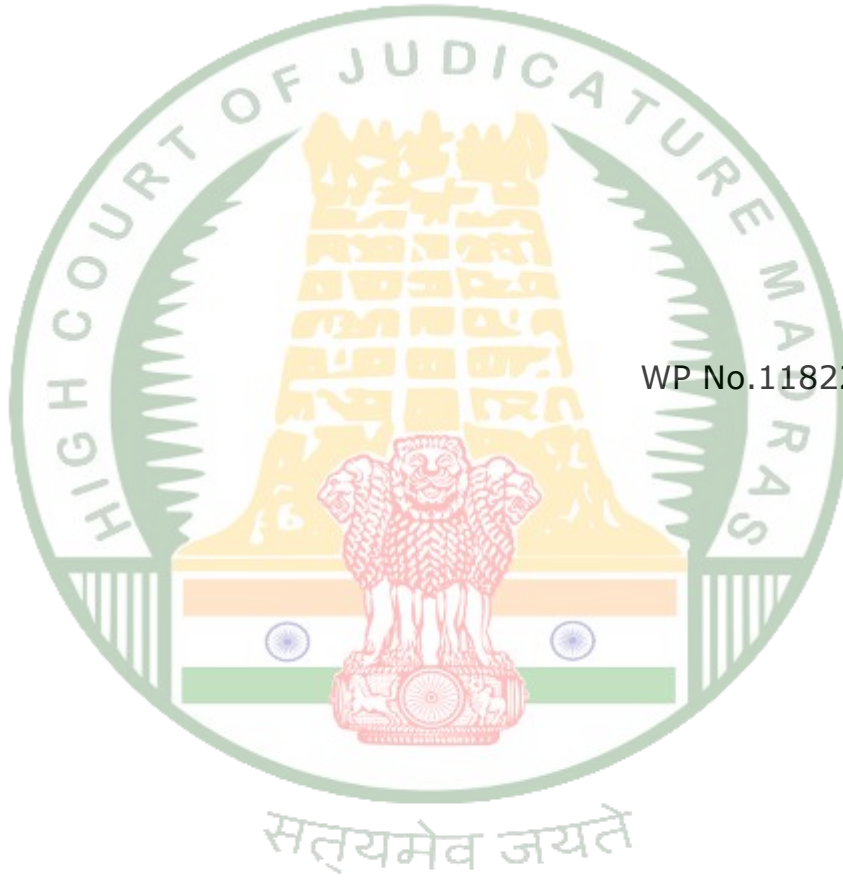
To

The Executive Engineer,
WRO/PWD Lower Pennaiyar
Basin Division,
Villupuram.

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S.M.SUBRAMANIAM, J.

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