

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :31.10.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.34602 of 2013  
and  
M.P.Nos.1 & 2 of 2013

P.Ganesan

..Petitioner

vs

The Joint Director of Agriculture,  
Villupuram.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the respondent in connection with the impugned order passed in A3/4330/2012 dated 5.3.2012 and quash the same.

For Petitioner : Mr.T.Ayngaraprabhu  
For Respondents : Mrs.K.Bhuvaneswari  
Government Advocate

O R D E R

The order of suspension issued by the respondent in proceedings dated 05.03.2012 is under challenge in this writ petition. The impugned order of suspension was issued, placing the writ petitioner under suspension on the ground that a criminal case was registered against him by the Department of Vigilance and Anti Corruption in criminal case No.01/AC/2012/VPM under Sections 7 & 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988.

2.The learned counsel for the writ petitioner states that the criminal case registered, is pending and yet to be disposed of. However, the writ petitioner is under continuous suspension for about five years.

3.This Court is of the view that keeping an employee under suspension for an unspecified period is certainly not desirable. An employee, placed under suspension is receiving Subsistence Allowance for an indefinite period and this Court is of the opinion that the payment of Subsistence Allowance for an indefinite period without extracting work from a Government employee is a financial loss to the State Exchequer. The disciplinary proceedings initiated against the Government employee, shall be concluded as early as possible without causing much delay. The long delay in conclusion of the disciplinary proceedings will prejudice the interest of the Government employee since they will be deprived of the service benefits including promotions, pay,etc,. Under these circumstances, the disciplinary authorities on initiation of the disciplinary proceedings are bound to conclude the same at the earliest possible.

4.In the case on hand, no doubt, a criminal case under the Vigilance and Anti Corruption Act, 1988, was registered against the writ petitioner. There is no bar in continuing the disciplinary proceedings under the Discipline and Appeal Rules independently. Simultaneous proceedings is certainly permissible. The simultaneous proceedings are impermissible, only on certain peculiar circumstances where it is not possible to proceed against the delinquent during the pendency of the criminal case. Then, the departmental proceedings shall be kept in abeyance, but not otherwise. In all other cases, the disciplinary authorities are at liberty to continue the disciplinary proceedings even during the pendency of the criminal case. If the documents, records, evidences and witnesses are available with the department, then it is left open to the disciplinary authority to continue the disciplinary proceedings, conclude the enquiry, take a decision and pass final orders in all respects. In the case on hand, the disciplinary proceedings was initiated against the writ petitioner, by placing him under suspension. Thereafter, no charge memo was issued to him. Thus, the disciplinary authority has to take note of these facts and take a decision in respect of the continuance of the disciplinary proceedings or to keep the proceedings in abeyance till the final disposal of the criminal case. This has to be decided independently by the disciplinary authority by considering the facts and circumstances of the particular case.

5.However, this Court is of the opinion that keeping an employee under suspension for an unspecified period is certainly not advisable and prolonged suspension is bad in law. Thus, the order impugned in this writ petition issued by the respondent in

proceedings A3/4330/2012 dated 5.3.2012 is quashed and the respondent is at liberty to post the writ petitioner in any one of the non-sensitive posts and extract work till the final disposal of the disciplinary proceedings as well as the criminal case.

6. Accordingly, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also closed.

Assistant Registrar  
Dt.15.11.17

//True Copy//

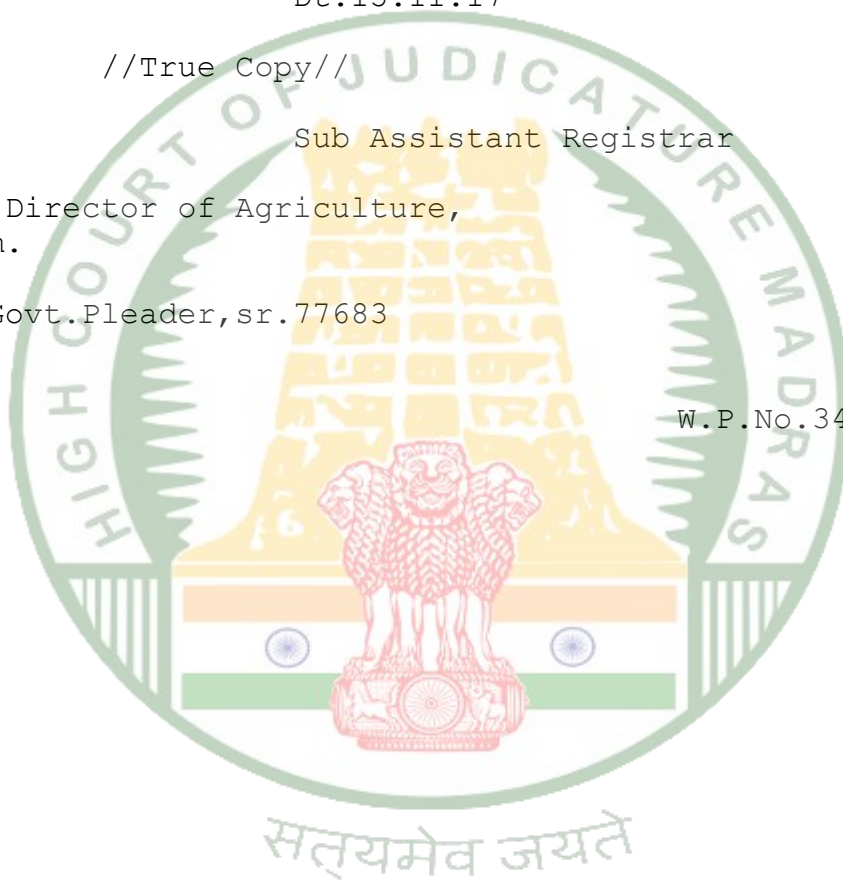
Sub Assistant Registrar

To  
The Joint Director of Agriculture,  
Villupuram.

+1 cc to Govt. Pleader, sr.77683

krd 23/11

W.P.No.34602 of 2013



WEB COPY