

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :18.06.2018

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

W.P.No.11403 of 2015

and M.P.No.2 of 2015

M.Natarajan

..Petitioner

vs

The Chief Engineer / Distribution,
Chennai Region / South/
No.800, Anna Salai,
Chennai-2

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the respondent in his Memo No.05283/284/Adm.A/A3/F.Natarajan/2014, dated 16.04.2014 and quash the same and consequently direct the respondent to reinstate the petitioner into service with all attendant benefits and other benefits.

For Petitioner : Mr.C.Prakasam

For Respondent : Mr.P.R.Dhilip Kumar,

O R D E R

The facts in nutshell to be considered for deciding the writ petition is that the writ petitioner was appointed as Technical Assistant in Tamil Nadu Electricity Board. The petitioner was promoted to the post of Junior Engineer Grade-II in the year 1989 and was further promoted to the post of Assistant Executive Engineer. The writ petitioner was placed under suspension initially in proceedings dated 27.04.2010 on the ground that a criminal case was registered against the petitioner under the Prevention of Corruption Act, 1988 for demanding and acceptance of bribe of Rs.20,000/- for shifting an electrical post from the complainant / owner's land at Mattanaodai.

2. The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner is under continuous suspension for the past about eight years and no action has been taken even to conclude the departmental disciplinary proceedings initiated against the writ petitioner. The criminal case is also still pending and yet to be disposed of by the competent criminal court. The representation submitted by the writ petitioner periodically were not considered by the respondent.

Thus, earlier he filed W.P.No.12882 of 2012 and W.P.No.5416 of 2014. The directions given by this Court to review the case of the writ petitioner also entered with an order of rejection in proceedings dated 16.04.2014. Thus, the writ petitioner is constrained to move the present writ petition.

3. The learned counsel appearing on behalf of the respondents made a submission that it is a trap case and the criminal case was registered by the Police under the provisions of the Prevention of Corruption Act. Until the criminal case is concluded, the Department will not be in a position to proceed with the departmental disciplinary proceedings. Mr.P.Suresh Kumar, Senior Administrative Officer, Office of the Chief Engineer, Chennai South Region, TNEB, Chennai-2 is present before this Court and informed this Court that there is no independent and sufficient records available on file to proceed against the writ petitioner under the Discipline and Appeal Rules and further actions are to be initiated only based on the judgment to be delivered by the Criminal Court in the criminal case.

4. Under these circumstances, this Court is of an opinion that the departmental disciplinary proceedings are to be kept in abeyance till the conclusion of the criminal case pending against the writ petitioner. Two circumstances are possible in such cases. If the Department is in possession of adequate documents enabling them to proceed under the Discipline and Appeal Rules, there is no bar for the Disciplinary Authority to conclude the proceedings in accordance with the Rules. If there is no such records available with the Department and in the absence of the final judgment of the Criminal Court, the Department is unable to proceed further against the delinquent Officials, then, the Department has to wait for the final outcome of the criminal case registered against the writ petitioner. In these circumstances, the departmental disciplinary proceedings are to be kept in abeyance.

5. This being the legal principles to be followed, in the present case, even the Officer is present before this Court and informed this Court that there is no independent records available with the Department to proceed against the writ petitioner under the Discipline and Appeal Rules. Further actions are to be initiated only on the basis of the judgment to be delivered by the criminal court in the criminal case registered against the writ petitioner. This being the position, keeping the writ petitioner under suspension for an unspecified period is certainly unwarranted.

6. The Disciplinary Authorities on initiation of departmental disciplinary proceedings should conclude the same

at the earliest possible and within the reasonable period of time. Keeping an employee under suspension for an indefinite period is certainly not desirable. Keeping an employee under suspension and paying subsistence allowance for a longer period is certainly a financial loss to the State Exchequer. Without extracting any work, subsistence allowance is paid to an employee for an unspecified period. Such a practice is to be avoided by the competent authorities. On initiation of disciplinary proceedings, either the same should be concluded within a reasonable period, or the order of suspension issued should be revoked and the employee shall be accommodated in any non-sensitive post till the final disposal of the criminal case pending against such delinquent Official.

7. In the present case on hand, the respondent has informed this Court that there is no independent documents available enabling the Department to proceed in accordance with the Discipline and Appeal Rules. Such being the position, the Department has to wait till the final disposal of the criminal case registered against the writ petitioner under the provisions of the Prevention of Corruption Act.

8. However, during the pendency of the criminal case, the writ petitioner shall be reinstated forthwith and he may be posted in any one of the non-sensitive post till the final disposal of the criminal case.

9. In this view of the matter, the impugned order passed by the respondent in Memo No.05283/284/Adm.A/A3/F.Natarajan/2014 dated 16.04.2014 is quashed and the respondent is directed to reinstate the petitioner and post him in any one of the non-sensitive post forthwith till the final disposal of the criminal case and after the final disposal of the criminal case, suitable actions may be initiated in accordance with law.

10. With the above directions, the writ petition stands allowed. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

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Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

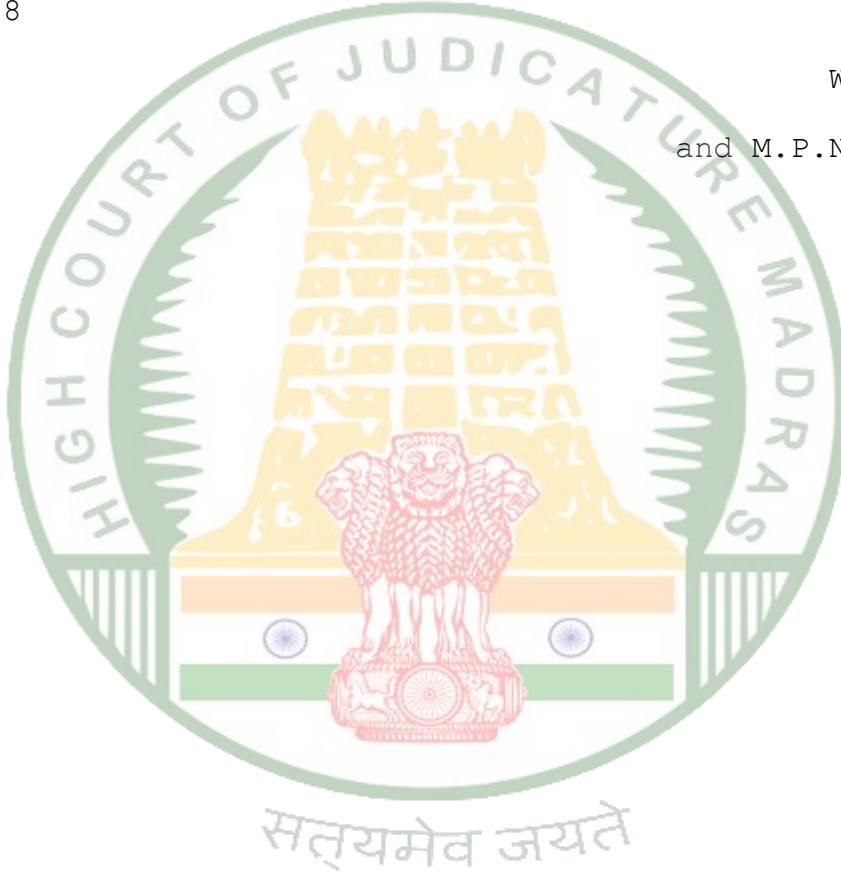
To

The Chief Engineer / Distribution,
Chennai Region / South/
No.800, Anna Salai,
Chennai-2

+1cc to Mr.C.Prakasam, Advocate Sr.No.38238
+1cc to P.R.Dhilipkumar, Advocate sR.No.37824

KGK (CO)
sm:2.7.2018

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