

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 18-04-2018

CORAM

THE HONOURABLE MR.JUSTICE SATRUGHANA PUJAHARI

W.P.Nos.6741 TO 6743 OF 2018 and
WMPS.8369 TO 8371 /18

W.P.No.6741/2018 :

M.Pachiyappan

Petitioner

-vs-

1.The Chairman,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
(TANGEDCO), NPKRR Maaligai,
144, Anna Salai, Chennai - 600 002.

2.The Superintending Engineer,
CEDC/South II,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
(TANGEDCO), K.K.Nagar,
Chennai-600 078.

3.The Chief Engineer - Personnel,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
(TANGEDCO), NPKRR Maaligai,
144, Anna Salai,
Chennai - 600 002.

Respondents

W.P.No.6742/2018 :

G.Natarajan

Petitioner

-vs-

1.The Chairman,
Tamil Nadu Generation and Distribution Corporation Ltd.,
(TANGEDCO), NPKRR Maaligai,
144, Anna Salai,
Chennai - 600 002.

2.The Chief Engineer,
Chennai Region - South,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
(TANGEDCO),
NPKRR Maaligai,
144, Anna Salai,
Chennai - 600 002.

3.The Chief Engineer - Personnel,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
(TANGEDCO),
NPKRR Maaligai,
144, Anna Salai,
Chennai - 600 002.

Respondents

W.P.No.6743/2018 :

A.Abdul Rasheed

Petitioner

-vs-

1.The Chairman,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
(TANGEDCO),
NPKRR Maaligai,
144, Anna Salai,
Chennai - 600 002.

2.The Superintending Engineer,
CEDC/South II,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
(TANGEDCO),
K.K.Nagar,
Chennai-600 078.

3.The Chief Engineer - Personnel,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
(TANGEDCO),
NPKRR Maaligai,
144, Anna Salai,
Chennai - 600 002.

Respondents

W.P.No.6741 of 2018 is filed under Article 226 of the
Constitution of India, praying for issuance of writ of
certiorarified mandamus, to call for the records of the second
respondent in Memo No.PR.No.67/Adm.I/A4/F.DVAC.SUS/2012, dated

20.01.2012, and quash the same and consequently permit the petitioner to rejoin duty/service as Assistant Engineer with all attendant/consequential benefits.

W.P.No.6742 of 2018 is filed under Article 226 of the Constitution of India, praying for issuance of writ of certiorarified mandamus, to call for the records of the second respondent in Memo No.00678/12/Adm O/B1/2013, dated 21.01.2013, and quash the same and consequently permit the petitioner to rejoin duty/service as Assistant Engineer (O&M) with all attendant/consequential benefits.

W.P.No.6743 of 2018 is filed under Article 226 of the Constitution of India, praying for issuance of writ of certiorarified mandamus, to call for the records of the second respondent in Memo No.PR.1998/Adm.I/A4/F.DV&AC-SUS/2014, dated 24.11.2014, and quash the same and consequently permit the petitioner to rejoin duty/service as Junior Engineer with all attendant/consequential benefits.

For petitioners : Mr.A.Jenasenan

For respondents : Mr.P.R.Dhilipkumar,
Standing Counsel.

COMMON ORDER

Petitioners have filed these Writ Petitions, challenging their suspension, pending disposal of the prosecution against them, for an indefinite period, and sought to quash the orders of suspension, passed by the second respondent, and direct the respondents to restore them into service with all attendant/consequential benefits.

2. It appears, the petitioners, while they were working as Assistant Engineers, were trapped in a case by Directorate of Vigilance and Anti-Corruption of the State, for receiving illegal gratification,. Thereafter, they were taken into custody and placed under suspension vide the impugned orders. The orders of suspension are not determinative ones. Thereafter, no review of such suspension has been done. However, the petitioners are getting subsistence allowance at the rate of 75%, as the suspension is for more than six months. Hence, the petitioners submit that the orders of suspension are to be quashed and they be reinstated into service with all consequential benefits.

3. No counter affidavit has been filed.

4. Learned counsel for the petitioners would submit that considering that suspension cannot be for indefinite period and any suspension order passed pending disciplinary proceedings or criminal prosecution is unsustainable and liable to be quashed, the petitioners be reinstated into service, in view of the settled proposition of law by the Apex Court in the case of Ajay Kumar Chowdary v. Union of India, 2015 (7) SCC 291, and, as such, the Writ Petitions are to be allowed.

5. Learned counsel for the respondents, however, though does not dispute that suspension is for indeterminate period and no review has been done, submits that the petitioners having been trapped while taking bribe, taking them into service is not in the interest of the administration. Hence, the Writ Petitions, according to him, are devoid of merit and liable to be dismissed.

6. In Ajay Kumar Chowdary's case, cited supra, the Apex Court has held in paragraphs 11 and 12 as under :

"11. Suspension, specially preceding the formulation of charges, is essentially transitory or temporary in nature, and must perforce be of short duration. If it is for an indeterminate period or if its renewal is not based on sound reasoning contemporaneously available on the record, this would render it punitive in nature. Departmental/disciplinary proceedings invariably commence with delay, are plagued with procrastination prior and post the drawing up of the memorandum of charges, and eventually culminate after even longer delay.

12. Protracted periods of suspension, repeated renewal thereof, have regrettably become the norm and not the exception that they ought to be. The suspended person suffering the ignominy of insinuations, the scorn of society and the derision of his department, has to endure this excruciation even before he is formally charged with some misdemeanour, indiscretion or offence. His torment is his knowledge that if and when charged, it will inexorably take an inordinate time for the inquisition or inquiry to come to its culmination, that is, to determine his innocence or iniquity. Much too often this has now become an accompaniment to retirement. Indubitably, the sophist will nimbly counter that our Constitution does not explicitly

guarantee either the right to a speedy trial even to the incarcerated, or assume the presumption of innocence to the accused. But we must remember that both these factors are legal ground norms, are inextricable tenets of Common Law Jurisprudence, antedating even the Magna Carta of 1215, which assures that - "We will sell to no man, we will not deny or defer to any man either justice or right." In similar vein the Sixth Amendment to the Constitution of the United States of America guarantees that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial."

7. Keeping the above principle in mind, if we see the present case, it is not known when the criminal prosecution launched against the petitioners is going to be concluded. Therefore, this Court is of the view that the petitioners have a good case and the prayer made by them in the Writ Petitions deserves to be granted. Accordingly, the respondents are directed to take effective steps to revoke the orders of suspension against the petitioners, giving necessary instructions in this regard to the appropriate authority, and also reinstate the petitioners in posts of similar grade, as they deem just and proper within a period ten days from the date of receipt or production of a copy of this order.

8. With the aforesaid order, these Writ Petitions stand disposed of. There shall be no order as to costs. Consequently, the connected W.M.P.Nos.8369 to 8371 of 2018 are closed.

Sd/-

Assistant Registrar(CS VIII)

//True copy// सत्यमेव जयते

Sub Assistant Registrar

dixit

To

1.The Chairman,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
(TANGEDCO), NPKRR Maaligai,
144, Anna Salai,
Chennai - 600 002.

WEB COPY

2.The Superintending Engineer,
CEDC/South II,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
(TANGEDCO), K.K.Nagar,
Chennai-600 078.

3.The Chief Engineer - Personnel,
Tamil Nadu Generation and Distribution Corporation Ltd.,
(TANGEDCO),
NPKRR Maaligai,
144, Anna Salai,
Chennai - 600 002.

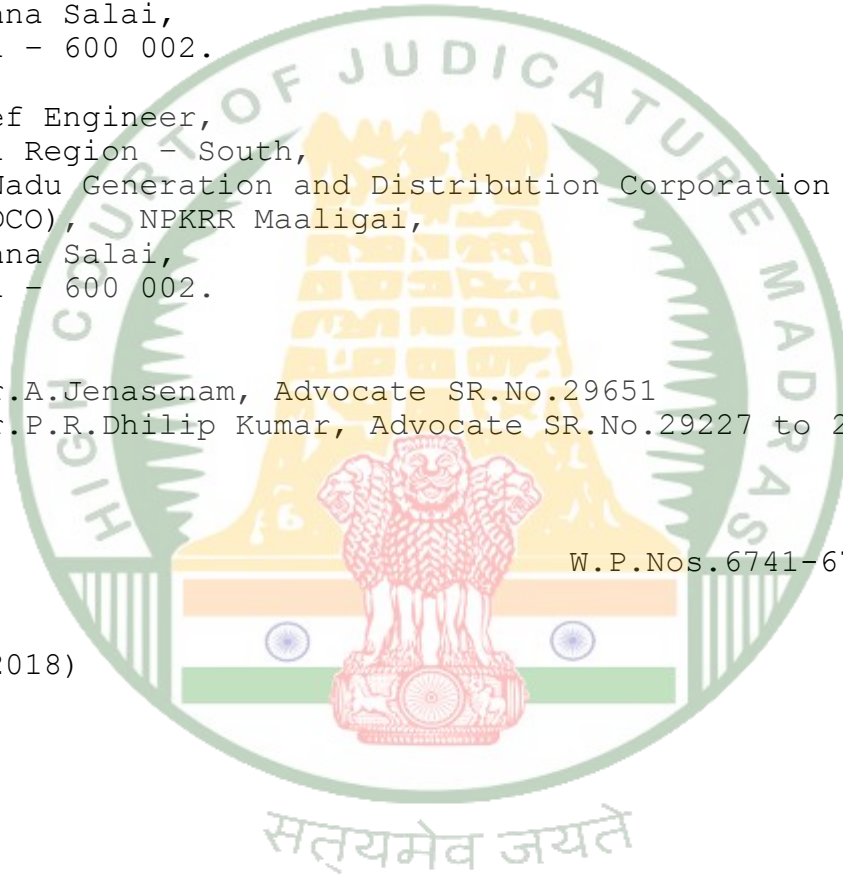
4.The Chief Engineer,
Chennai Region - South,
Tamil Nadu Generation and Distribution Corporation Ltd.,
(TANGEDCO), NPKRR Maaligai,
144, Anna Salai,
Chennai - 600 002.

+2cc to Mr.A.Jenasenam, Advocate SR.No.29651

+3cc to Mr.P.R.Dhilip Kumar, Advocate SR.No.29227 to 29229

W.P.Nos.6741-6743 OF 2018

PVS (CO)
GN(26/04/2018)



WEB COPY