

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2018

CORAM

THE HON'BLE MR.HULUVADI G.RAMESH, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE S.S.SUNDAR

W.A.No.1608 of 2018
and
C.M.P.No.12933 of 2018

- 1.The Chairman,
Tamil Nadu Generation and Distribution Corporation Limited,
No.800, Anna Salai, Chennai-600 002.
- 2.The Superintending Engineer,
Cuddalore Electricity Distribution Circle,
Capper Hills/Cuddalore-4. ... Appellants

vs

S.Dheenadayalan ... Respondent

Appeal filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P.No.884 of 2014 dated 25.10.2017.

W.P.No.884 of 2014

writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified Madamus calling for the records pertaining to impugned order passed by the 2nd respondent Memo No. 01015/Adm1/A3/F.DP/2010 dt 29.12.2010 and quash the same and consequently direct the respondent to allow the respondent to revoke the suspension order and allow the consequential benefits accordingly.

For Appellants :: Mr.M.Fakkir Mohideen

For Respondent :: Mr.B.Manoharan

JUDGMENT

(Delivered by THE HON'BLE ACTING CHIEF JUSTICE)

The respondent herein filed a writ petition before this Court in W.P.No.884 of 2014 to set aside the order of suspension dated 29.12.2010 issued by the second appellant. This Court allowed the writ petition by order dated 25.10.2017 on the

ground that there is no progress in the disciplinary proceedings for the past seven years. A direction was also issued to reinstate the respondent and post him in any one of the non-sensitive post during the pendency of the criminal case.

2.Challenging the said order, the appellants / Department have come up with this appeal.

3.The learned counsel for the appellants has submitted that the learned single Judge has erred in setting aside the suspension order and directing the appellants to post the respondent in a non-sensitive post, which is against the service rules and policies of the appellants and that is not valid in the eye of law and further, it will create a bad precedent for all others.

4.The learned counsel for the respondent has submitted that the learned single Judge has considered the matter in proper perspective and has passed the impugned order and hence the same does not require any interference in the hands of this Court. Further, he has produced a judgment passed by this Court in W.A.No.1255 of 2017 dated 03.10.2017, wherein a direction was given to the Management to get the matter cleared, take the respondent therein on duty and post him in a non-sensitive post, by relying upon the judgment of the Apex Court in Ajay Kumar Choudhry v. Union of India, reported in (2015) 7 SCC 291. Producing the said judgment, the learned counsel submitted that the same analogy has to be applied to the present case, as the said direction given was also on the point of delay in the disciplinary proceedings.

5.Heard the learned counsel on either side and perused the materials available on record.

6.In the present case, the delinquent was kept under suspension in the year 2010. Now it is 2018. Thus, for the past eight years, the delinquent / respondent is kept under suspension. Considering the facts and circumstances of the case and the judgment of this Court in W.A.No.1255 of 2017 dated 03.10.2017 which has been relied upon by the learned counsel for the respondent, the appellants are directed to conclude the disciplinary proceedings within a period of six months from the date of receipt of a copy of this judgment. If the same is not completed within six months as stated, the respondent has to be reinstated and be posted in a non-sensitive post, pending disposal of the disciplinary proceedings.

7.The writ appeal is disposed of accordingly. No costs.
Consequently the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

KM

To

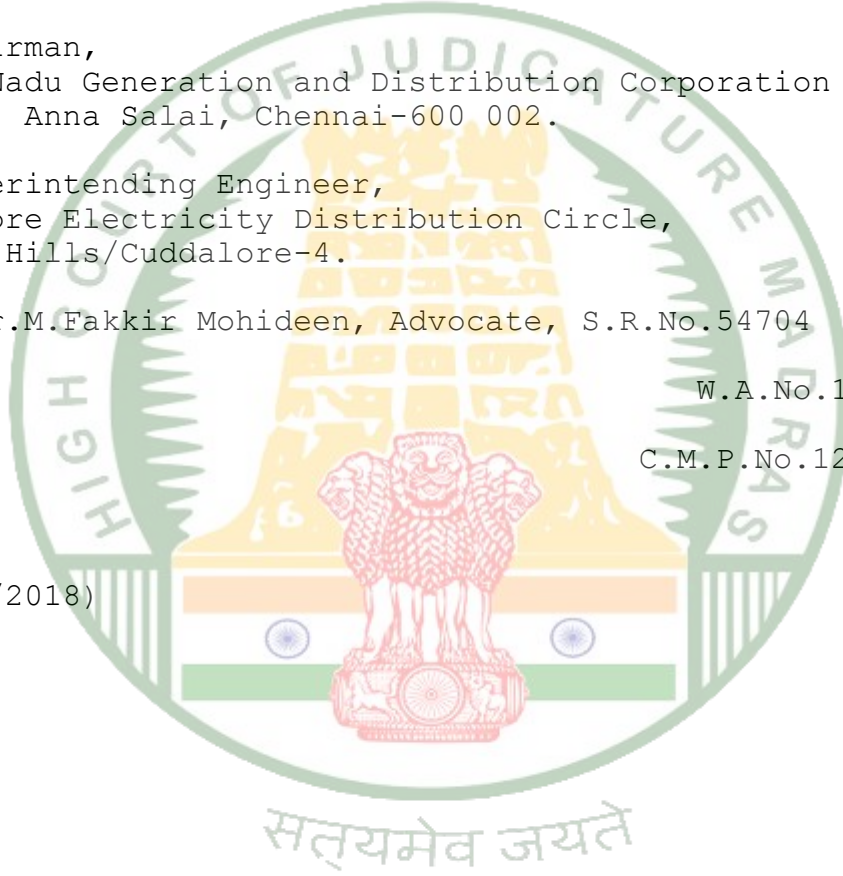
1.The Chairman,
Tamil Nadu Generation and Distribution Corporation Limited,
No.800, Anna Salai, Chennai-600 002.

2.The Superintending Engineer,
Cuddalore Electricity Distribution Circle,
Capper Hills/Cuddalore-4.

+1cc to Mr.M.Fakkir Mohideen, Advocate, S.R.No.54704

W.A.No.1608 of 2018
and
C.M.P.No.12933 of 2018

VSNII (CO)
GSP (29/08/2018)



WEB COPY