

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 01-08-2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH

AND

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

WRIT APPEAL No.1634 OF 2018

1.The Chairman,
TANGEDCO,
NOKRR Maaligai,
156, Anna Salai,
Chennai-600 002.

2.The Superintending Engineer,
Operation and Maintenance,
Dharmapuri Electricity Distribution Circle,
TANGEDCO,
Dharmapuri.

3.The Executive Officer,
Operation and Maintenance,
Dharmapuri Electricity Distribution Circle,
TANGEDCO, Palacode,
Dharmapuri District.

....

Appellants/Respondents 1 to 3

-vs-

Mr.R.Sridharan

सत्यमेव जयते

Respondent/Petitioner

Appeal under Clause 15 of the Letters Patent, against the order dated 01.06.2016, passed in W.P.No.17138 of 2016 on the file of this Court.

WP.17138/2016:

Writ Petition filed Under Article 226 of the Constitution of India to praying this court to issue a Writ of Mandamus or any other appropriate Writ, order or direction in the nature of Writ Directing the respondent to revoke the order of suspension and reinstate the petitioner in the non sensitive area by considering the petitioners representation dated 23.02.2016 and pass order on merits within a stipulated period as fixed by this

Honourable Court in terms of circular Letter No.13519/ N/2015-1 dated 23.07.2015 issued by the Principal Secretary Personnel and Administrative Reforms (N) Department Chennai.

For appellants : Mr.M.Fakkir Mohideen

JUDGMENT

(Judgment of the Court was delivered by Huluvadi G.Ramesh,J.)

Heard the learned counsel appearing for the appellants-TANGEDCO.

2. TANGEDCO has filed this appeal, challenging the order, dated 01.06.2016, passed in W.P.No.17138 of 2016 by the learned single Judge, directing the respondents therein, who are the appellants herein, to consider the case of the writ petitioner, respondent herein, to revoke the order of suspension and reinstate the petitioner in service, in the light of the decision of the Hon'ble Supreme Court in Ajay Kumar Choudhary v. Union of India, 2015 (7) SCC 291.

3. For an alleged misconduct committed by the respondent, the appellants have suspended the respondent from service and, though there is a lapse of more than 90 days, no charges have been framed against the respondent.

4. As per Ajay Kumar Choudhary's case, cited supra, suspension cannot be for an indefinite period and any suspension order passed pending disciplinary proceedings or criminal prosecution for indefinite period is unsustainable and liable to be quashed. Paragraph 11 of the said decision is relevant, which runs thus :

"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."

5. In the instant case, the respondent was suspended by the authorities on 22.10.2013, and, even after a lapse of nearly five years, the inquiry is not concluded and no final report is filed. The authorities are duty bound to conclude the inquiry within a time bound manner. They cannot sleep over the matter for years together and keep the delinquent-employee under suspension for an indefinite period. Therefore, it is for the

appellants-authorities to implement the direction of the learned single Judge in letter and spirit. As such, we find no scope to interfere with the order passed by the learned single Judge.

6. Writ Appeal is dismissed in limine. No costs. Consequently, the connected C.M.P.No.13190 of 2018 also stands dismissed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

dixit

TO:

- 1.The Chairman,
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TANGEDCO, Palacode,
Dharmapuri District.

+1cc to Mr.M.Fakkir Mohideen, Advocate sr.no.52945

W.A.No.1634 OF 2018

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nr 05/09/2018

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