

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2018

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.322 of 2018
and
C.M.P.No.2649 of 2018

1. The Chief Engineer / Distribution
Chennai North Region / Tamil Nadu Generation
and Electricity Distribution Corporation Ltd.
(Tamil Nadu Electricity Board),
No.144, Anna Salai, Chennai-2.
 2. The Superintending Engineer,
Chennai Development Circle / TANGEDCO,
A-10, Thiru-Vi-Ka Industrial Estate,
Guindy, Chennai-32.
- ... Appellants

-vs-

- 1.T.Rajasekar
 - 2.The Inspector of Police,
Central Crime Branch,
Team V, Forgery Wing, Egmore,
Chennai-8.
- ... Respondents

Appeal filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P.No.21045 of 2016 dated 18.08.2016.

W.P.No. 21045/2016:

Writ Petition under Article 226 of the constitution of India, praying to Calling for the records of the 2nd respondent in its proceedings in Memo NO. Se/CDC/ ADM/A3/F. Suspension/D.No.3201/2013 dated 30.08.2013 and subsequent proceedings passed by the 2nd respondent in letter Lr.No. 4024/Me.Po/Se.Va.Va/Ne.P1/U3/Ko Suspension/2015-1 dated . 10.2015 which is signed on 13.10.2015 by the 2nd respondent and quash the same and consequently direct the 1st respondent to revoke the order of suspension and reinstate the petitioner in any department.

For Appellants :: Mr.P.R.Dhilipkumar

For Respondents :: Mr.S.Venkatesh for R1

JUDGMENT

(Delivered by HULUVADI G.RAMESH, J.)

This writ appeal has been filed challenging the order passed by a learned single Judge of this Court in W.P.No.21045 of 2016 on 18.08.2016, setting aside the order of suspension and the subsequent proceedings passed by the second appellant herein, relying upon the decisions of the Hon'ble Supreme Court in the case of Ajay Kumar Choudhary v. Union of India, reported in (2015) 7 SCC 291, since this is a case of prolonged suspension.

2.The first respondent was working in the appellant Department as Senior Draughtsman. On 19.07.2013 a criminal complaint was made by the Executive Engineer, Bus Route Department, Corporation of Chennai, alleging that he created fake permission letters on behalf of the Chennai Corporation to build, operate and transfer the Modern Bus Shelter and based on such fake letters, an advertisement company, viz. M/s.Vantage Complete Outdoor Solutions, Anna Nagar, Chennai obtained Electricity Service connections and installed Modern Bus Shelters and thereby gained profit. Based on such complaint, a case was registered in Crime No.336 of 2013 dated 26.08.2013 as against the advertisement company only. It is the case of the first respondent that his name is not figuring in the FIR. While so, he was suspended from service by proceedings dated 30.08.2013. Further, no charge memo was issued and no charge sheet was filed in Crime No.336 of 2013 and as such no prima facie case has been made out against the first respondent. In these circumstances, the first respondent filed a writ petition before this Court in W.P.No.21045 of 2016 and this Court, on considering the facts and circumstances of the case, allowed the writ petition, as stated supra.

3.The learned counsel for the appellant Department has submitted that order passed by the learned single Judge is unsustainable in law and on facts and it is liable to be set aside, since the first respondent is facing criminal prosecution and hence he is ineligible for the prayers sought for in the writ petition.

4.The learned counsel for the first respondent has submitted that even though the first respondent has been suspended, no charge memo was issued to the first respondent and further no charge sheet has been filed in the criminal case and it is a

case of prolonged suspension and hence the prolonged suspension of the first respondent should not be allowed to sustain any longer.

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

6. It appears that it is a case of prolonged suspension for a period of three years even at the time of filing of the writ petition. On certain allegations against the first respondent, a criminal case has been registered, for which no charge sheet has been filed till now. Further, no charge memo has been issued by the Department. In these circumstances, the learned single Judge has relied upon the decision of the Hon'ble Supreme Court in *Ajay Kumar Choudhary v. Union of India*, reported in (2015) 7 SCC 291 and quashed the orders impugned therein. In the considered view of this Court, the said decision of the learned single Judge does not require any interference by this Court. Here, it should also be noted that another person who had also involved in this case, was reinstated in service, pursuant to the order passed by this Court in W.P.No.5442 of 2015 dated 26.04.2016, quashing the suspension order on the ground that it was a prolonged one.

7. In the result, the impugned order passed by the learned single Judge in the writ petition is confirmed and the writ appeal is dismissed. No costs. Consequently the connected miscellaneous petition is closed.

s/d-

Assistant Registrar (CS VII)

True Copy

Sub-Assistant Registrar

KM

To

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+1 CC to Mr. Dhilip Kumar, advocate sr 22794.
+1 CC to Mr. Venkatesh, Advocate sr 22694.

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MG (CO)
SP(11/04/2018)



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