

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2018

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA

Writ Petition No.15127 of 2018

& WMP No.17887 of 2018

M.Kamaraj

... Petitioner

..vs..

1. The Chairman, Tamil Nadu Generation and Distribution Corporation Ltd. (TANGEDCO), NPKRR Maaligai, 144 Annasalai, Chennai 600 002
 2. The Superintending Engineer, SEDC/Salem 14, Salem Electricity Distribution Circle, Udayapatty, Salem
 3. The Chief Engineer-Personnel, Tamil Nadu Generation and Distribution Corporation Ltd (TANGEDCO), NPKRR Maligai, 144 Annasalai, Chennai 600 002
- ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the second respondent in Memo No.802/183/ADM.III/A2/F.Sus/2010, dated 14.10.2010 and the consequential order in Memo No.057054/573/G7/G71/2016-4, dated 24.09.2016 of the third respondent, to quash the same and to permit the petitioner to join duty / service as Assistant Engineer with all attendant / consequential benefits.

For Petitioner : Mr. Vijayan Subramanian

For Respondents : Mr. P.R.Dhilipkumar, Sg. Counsel.

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O R D E R

The petitioner-M.Kamaraj, Assistant Engineer, was placed under suspension with effect from 12.10.2010.

2. Earlier, the petitioner moved W.P.No.7339 of 2016 and this Court directed the respondents therein to consider the claim of the petitioner in the light of the judgment of the Hon'ble Apex Court in the case of Ajay Kumar Choudhary v. Union of India (2015) 7 SCC 291 on merits and in accordance with law.

3. The request for revocation of suspension has been rejected by the respondents on the ground that until the petitioner is exonerated from the criminal case, he cannot ask for revocation of suspension. This order is dated 29.01.2016.

4. It is contended that even after the passing of this order, for the past two years, there is no progress in the trial. The order of the third respondent, dated 24.09.2016, did not give acceptable reasons for refusal to revoke the order of suspension.

4.1. It is contended that prolonged trial is also illegal as speedy trial is a fundamental right of the accused.

5. It is contended that the punishment should be based on result of the enquiry or result of criminal trial and it cannot be by way of imposing prolonged suspension. Suspension for a period of eight years, is illegal. There is no reason as to why the trial could not be completed within a period of two years even after the rejection order passed by the respondents.

5.1. Moreover, the respondents will be paying the subsistence allowance without the petitioner discharging his duties. Considering all these aspects into account, the Hon'ble Apex Court, in the Ajay Kumar Choudhary's case, referred to supra, stipulated that the delinquents should be posted in any non-sensitive post, by imposing appropriate terms and conditions.

6. Under such circumstances, the impugned order refusing revocation of suspension is set-aside and the respondents are directed to revoke the order of suspension passed against the petitioner by imposing appropriate terms and conditions and by posting him in any non-sensitive post. Such an order shall be passed by the respondents forthwith, not later than two weeks from the date of receipt of a copy of this order.

7. With the above directions, this writ petition is disposed of. No costs. Consequently the connected WMP is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman, Tamil Nadu Generation and Distribution Corporation Ltd. (TANGEDCO),
NPKRR Maaligai, 144 Annasalai,
Chennai 600 002
2. The Superintending Engineer,
SEDC/Salem 14, Salem Electricity Distribution Circle,
Udayapatty, Salam
3. The Chief Engineer-Personnel,
Tamil Nadu Generation and Distribution Corporation
Ltd (TANGEDCO), NPKRR Maligai,
144 Annasalai, Chennai-2

W.P.No.15127 of 2018
& WMP No.17887 of 2018

A.SK(11/01/2019)