

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 21.12.2018

CORAM :

THE HONOURABLE DR. JUSTICE S.VIMALA

W.P. NO. 34265 OF 2018

AND

W.M.P. NOS. 39819 & 39821 OF 2018

C.Selvaraj

.. Petitioner

- Vs -

1. The Chairman
Tamil Nadu Generation & Distribution
Corporation ltd. (TANGEDCO)
NPKRR Maaligai
144, Anna Salai, Chennai - 2.
2. The Superintending Engineer
SEDC/Salem 14
Salem Electricity Distribution Circle
Udayapatty, Salem.
3. The Addl. Chief Engineer
Tamil Nadu Generation & Distribution
Corporation Ltd. (TANGEDCO)
Salem Electricity Distribution Circle
Salem - 14.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records of the 2nd respondent in Memo No.SE/SEDC/SLM/ADM.3/A.2/F.Suspension/2012 dated 28.3.2012 and of the 3rd respondent vide Ku.A.No. 196-3/ Nibi.3/ U.T.2/ Ko. C.S. /2012 dated 13.8.2012 quasjh the same and consequently permit the petitioner to rejoin duty/service as Assistant Engineer with all attendant/consequential benefits.

For Petitioner : Mr. Vijayan Subramanian

For Respondents: Mr. P.R.Dhilip Kumar,
Standing Counsel

ORDER

This writ petition has been filed challenging the order dated 28.3.12 by which the petitioner was placed under suspension and of the 3rd respondent dated 13.8.12 by which the 3rd respondent refused to revoke the order of suspension.

2. This Court, in W.P. No.14021/12 directed the respondents therein to consider the representation of the petitioner seeking revocation of suspension within a period of 30 days from the date of receipt of a copy of the said order. Thereafter, on 13.8.12, the respondent passed the impugned order.

3. The present petition has been filed on the ground that the rejection of the representation of the petitioner is not in consonance with law and is against the order passed by the Supreme Court in Ajay Kumar Choudhary's case.

4. A perusal of the order reveals that the request for revocation has been rejected on the ground that it would not be in public interest and the probity in public administration would get affected. The above reason for rejection is very general and the request for revocation should have been considered in the light of the representation made by the petitioner.

5. In the case of Ajay Kumar Choudhary - Vs - Union of India (2015 (7) SCC 291), the Supreme Court had held that prolonged suspension is illegal and that the authorities are expected to review the suspension order issued.

6. In the present case, the process of review, as enunciated by the Supreme Court, has not been done. The authority even though has quoted the relevant Board Regulations, but did not give necessary reason for keeping the petitioner under suspension, except stating that in public interest the petitioner should be placed under suspension. Under the regulations, the petitioner has been under suspension for more than four months, which would definitely have put the department to loss apart from causing problems to the petitioner. Therefore, the Department had sought the opinion of Vigilance & Anti Corruption Department to which report has been given by the Vigilance & Anti Corruption Department, stating that in public interest the petitioner should be kept on suspension. However, as stated above, the reason given for keeping the petitioner under prolonged suspension is general and vague. Though the matter relates to corruption, but that cannot be a ground to keep the petitioner under prolonged suspension.

7. In such circumstances, this Court is of the view that it is always open to the respondents to consider posting of the petitioner in any non-sensitive post by placing him in appropriate place so that public interest would not suffer.

8. Accordingly, the order of suspension as well as the order of rejection are quashed and this writ petition is disposed of directing the respondents to reinstate the petitioner after imposing suitable conditions and by placing him in an appropriate place in any non-sensitive post, within a period of eight weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed. However, there shall be no order as to costs.

GLN

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

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Salem Electricity Distribution Circle
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+1cc to Mr.Vijayan Subramanian, Advocate, S.R.No.89870

W.P. NO. 28764 OF 2018