



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :10.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.A(MD)No.35 of 2018

A.Sankaran

... Appellant/Petitioner

Vs.

The Deputy Collector/Regional Manager,
Tamil Nadu Civil Supply Corporation Ltd.,
Madurai Region,
Madurai.

... Respondent/Respondent

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent to call for the records pertaining to the order in W.P(MD)No.19437 of 2017 dated 20.10.2017 passed by this Court and set aside the same.

Prayer in WP(MD). 19437/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order of suspension in R.O.C.No. E2/0450/2017 on 11.04.2017 passed by the respondent, and quash the same and consequently direct the respondent to reinstate the petitioner into service.

For Appellant : Mr.K.Kannan

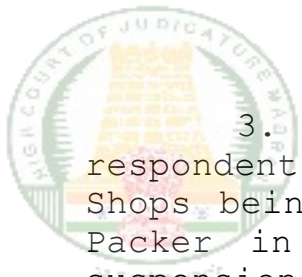
For Respondent : Mr.S.Dhayalan
Standing Counsel for TNCSC

JUDGMENT

(Judgment of the Court was delivered by
M. SATHYANARAYANAN, J.)

By consent, the main Writ Appeal itself is taken up for final disposal.

2. Mr.S.Dhayalan, learned standing counsel accepts notice on behalf of the sole respondent.



3. The appellant/writ petitioner was appointed by the respondent on 30.06.2011 and he had served in various Fair Price Shops being run by the respondent and while he was working as a Packer in Corporation Retail Shop No.12, he was placed under suspension vide proceedings dated 11.04.2017 on the ground that an enquiry into grave charges against him is contemplated. The appellant challenging the legality of the said order of suspension has filed W.P(MD)No.19437 of 2017. This Court vide impugned order dated 20.10.2017 having found that charge memo has been issued, thought it fit to dismiss the Writ Petition for want of merits. Challenging the legality of the said order, the present Writ Appeal is filed by the appellant.

4. The learned counsel appearing for the appellant would submit that charge memo has been issued and for which, the appellant/writ petitioner has also submitted his written statement of defence and he is willing to co-operate with the Department for early conclusion of the enquiry and he is under suspension for nearly eight months and odd and with meagre subsistence allowance, he is finding it extremely difficult to meet both the ends and prays for revocation of the order of suspension.

5. Per contra, the learned standing counsel appearing for the respondent would submit that the appellant, who was appointed as a Packer of a Fair Price Shop, which distributes essential commodities to poor and needy, is in the position of keeping trust and confidence and he made a bogus entry in the Family Card and diverted the stock and considering the facts and circumstances and the nature and gravity of the allegation, he has been rightly placed under suspension and on instructions would further add that the disciplinary proceedings will be concluded at the earliest and final orders would also be passed and prays for dismissal of this Writ Appeal.

6. This Court heard the rival submissions and perused the materials placed before it.

7. It is not in dispute that the appellant in contemplation of enquiry into grave charges, was placed under suspension by the respondent vide order dated 11.04.2017 and it is in subsistence for nearly eight months and odd and the appellant has also been issued with charge memo and for which, he has also submitted his written statement of defence and it is represented that Inquiry Officer is yet to be appointed.

8. The Honourable Supreme Court of India in the decision reported in **2015 3 CTC 119(SC) (Ajay Kumar Choudhary vs. Union of India (UoI) and Others**, has dealt with the issue with regard to the propriety of suspension of an employee and it is relevant to extract Paragraph No.14 of the said decision.



"14. We, therefore, direct that the currency of a Suspension Order should not extend beyond three months if within this period the Memorandum of Charges/Charge-sheet is not served on the delinquent officer/employee; if the memorandum of Charges/Charge-sheet is served a reasoned order must be passed for the extension of the suspension. As in the case in hand, the Government is free to transfer the concerned person to any Department in any of its offices within or outside the State so as to sever any local or personal contact that he may have and which he may misuse for obstructing the investigation against him. The Government may also prohibit him from contacting any person, or handling records and documents till the stage of his having to prepare his defence. We think this will adequately safeguard the universally recognised principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognize that previous Constitution Benches have been reluctant to quash the proceedings on the grounds of delay, and to set time limits to their duration. However, the imposition of a limit on the period of suspension has not been discussed in prior case law, and would not be contrary to the interests of justice. Furthermore, the direction of the Central Vigilance Commission that pending a Criminal investigation, Departmental proceedings are to be held in abeyance stands superseded in view of the stand adopted by us."

9. The Personnel and Administrative Reforms (N) Department, Government of Tamil Nadu, has also issued a circular letter No.13519/N/2015-1, dated 23.07.2015, issuing guidelines in the light of the above cited judgment rendered by the Honourable Supreme Court of India.

10. This Court taking into consideration the above facts and circumstances and also in the light of the ratio laid down in the above cited decision, directs the respondent to pass an order as to the reason for keeping the order of suspension passed against the appellant alive despite the charge memo being served and such exercise is to be completed within a period of four weeks from the date of receipt of a copy of this judgment. The respondent shall also make an endeavour to appoint an Inquiry Officer and on such appointment, the appellant is directed to extend his co-operation for early conclusion of the proceedings. In any event, the disciplinary proceedings shall be completed and final orders have to be passed within a period of three months



from the date of receipt of a copy of this judgment.

11. The Writ Appeal stands disposed of accordingly. No
Costs.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

The Deputy Collector/Regional Manager,
Tamil Nadu Civil Supply Corporation Ltd.,
Madurai Region,
Madurai.

+ 1 cc TO Mr.K.Kannan , Advocate in SR No. 41427
+ 1 cc TO The Special Government Pleader in SR No. 41766

pm
AE/KK/SAR1/25.01.2018/4P/4C

W.A(MD) No.35 of 2018
10.01.2018