



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 23.02.2018

WEB COPY

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.3834 of 2018

and

W.M.P. (MD) .Nos.3969 & 3970 of 2018

B.Babu

... Petitioner

Vs.

The Superintendent of Police,
O/o. the Superintendent of Police,
Madurai District.

... Respondent

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the respondent to keep the disciplinary proceedings initiated against the petitioner in abeyance till the completion of Criminal case filed against the petitioner in Crime No.65 of 2015 before the Central Crime Branch, Madurai City.

For Petitioner	: Mr.S.Rajasekar
For Respondent	: Mr.K.Saravanan
	Government Advocate

ORDER

Heard the learned counsel on either side.

2.The Writ Petition itself is taken up for final disposal at the stage of admission by consent of both the parties.

3.The petitioner is working as Data Entry Operator. He has been implicated as an accused in Crime No.65 of 2015 on the file of the Central Crime Branch, Madurai City for offences under Sections 465, 466, 471, 474 and 420 of IPC. The substance of the First Information Report is that some corrections have been made in his SSLC mark sheet. On the same set of facts, the petitioner has also been issued with a charge memo dated 31.01.2018. The petitioner's plea is that the disciplinary action initiated against him under Rule 17 (b) of the Tamil Nadu Civil Services (Discipline and Appeal), 1955, should be kept in abeyance till the completion of the criminal prosecution. This representation was given on 14.02.2018. Since the respondent is intending to proceed



ahead, this Writ Petition came to be filed.

4. The petitioner's contention is that as an accused, in criminal case, the petitioner has got a fundamental right to fair trial. If the disciplinary proceedings are allowed to go on in the mean while he will have to disclose his defence and that he cannot conduct an effective cross-examination in the criminal trial. This submission has considerable force and merit. But then the petitioner cannot be allowed to hang on indefinitely on this ground. It is well known that the prosecution takes a long time for conducting investigation and filing the final report. Charge sheet are taken cognizance expeditiously. The trials do not conclude fast. Therefore, a balance has to be struck in such cases. The Hon'ble Supreme Court in the decision reported in (2016) 9 SCC 491 (*State Bank of India and others Vs. Neelam Nag and another*) held that in such cases the disciplinary proceedings can be put on hold for a period of one year. If the criminal prosecution does not get concluded in the mean while the departmental action can resume. Respectfully following such course of action, this Court directs the Central Crime Branch, Madurai City, to file the final report in Crime No.65 of 2015 within a period of three months from today, if the same has not already been filed. The Jurisdictional Court shall take the same on file and endeavour to conclude the criminal trial within a period of nine months thereafter. Thus, the petitioner has a breathing time of twelve months. If the criminal prosecution does not get concluded in the mean while the departmental action initiated against the petitioner shall resume. The respondent is thus directed to keep the disciplinary proceedings initiated against the petitioner in abeyance only for a period of one year.

5. This Writ Petition is allowed to this extent. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/

Assistant Registrar (RTI)

/True copy/

Sub Assistant Registrar

To
The Superintendent of Police,
O/o. the Superintendent of Police,
Madurai District.

+1cc to Mr.T.LAJAPATHI ROY, Advocate, SR.No. 51198

+1cc to M/s.Special Government Pleader, SR.No. 51304

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