



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 20.04.2018

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.8088 of 2018
and WMP No.7669 of 2018

K.Podhikachalam

... Petitioner

-vs-

1. The Superintending Engineer
National Highways Department
(Construction and Maintenance)
Tirunelveli.

2. The Divisional Engineer,
National Highways Department
(Construction and Maintenance)
Tenkasi,
Tirunelveli District.

3. The Junior Engineer,
Office of the Assistant Divisional Engineer,
(Construction and Maintenance)
Senkottai,
Tenkasi Division,
Tirunelveli District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order of suspension passed by the second respondent in his proceedings bearing Order No.3174/2017/A1 dated 02.11.2017 and quash the same with a consequential direction directing the respondents to reinstate the petitioner into service.

For Petitioner : Mrs.Porkodi Karnan
for M/s.Polax Legal Solutions

For Respondents: Mr.K.Saravanan
Government Advocate

O R D E R

The prayer in the writ petition is for a writ of Certiorarified Mandamus to call for the records pertaining to the impugned order of suspension passed by the second respondent in his proceedings bearing Order No.3174/2017/A1 dated 02.11.2017 and quash the same with a consequential direction directing the respondents to reinstate the petitioner into service.



2. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

3. The petitioner is working as Gang Mazdoor in Sencottah, Highways Department, Construction and Maintenance, Sencottah. He was placed under suspension on 02.11.2017 on the ground that the petitioner was arrested on 14.10.2017 and he had been in jail as a pre trial prisoner for more than 48 hours. Therefore, invoking Rule 17(e) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, the petitioner was placed under suspension. Challenging the said order, the present writ petition has been filed.

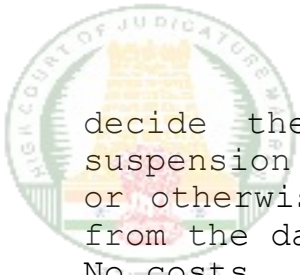
4. The learned counsel for the petitioner would submit that the petitioner on 14.10.2017 has gone for attending the temple festival along with his family and the police intercepted the petitioner, called him to the Police Station for enquiry, where they cooked up a false case and registered an FIR, as if that the petitioner along with others conspired to commit the offence. Accordingly, the petitioner was arrested and remanded to judicial custody. Because of the said arrest and judicial custody, the 2nd respondent has passed the impugned order of suspension placing the petitioner under suspension from 14.10.2017 onwards.

5. The learned counsel for the petitioner would further submit that the petitioner is no way connected with the said false case and therefore, based on which, unnecessarily the petitioner has been dragged in and placed under suspension and because of the prolonged suspension, the petitioner has made a request to the respondents 2 and 3 to reconsider/ review the suspension and the same is still pending and the said suspension is still in force and there is no further progress seems to have been made in the criminal case, as it is still in the FIR stage, hence it become necessitated for the respondent Department to decide as to whether the suspension against the petitioner shall further continue in the interest of administration.

6. Law is well settled in this regard. If a Government servant is suspended, periodical review shall be made and every time, it shall be decided by the authorities concerned, whether that suspension shall continue in the interest of administration and if so, the reason to be recorded for continuance of suspension.

7. Here, in the case in hand, since the petitioner had given representation on 09.11.2017, requesting to review his suspension order and to revoke the same and the same is still pending consideration before the respondent Department, this Court is inclined to pass the following order, by disposing the writ petition:

"The second respondent is directed to consider the representation of the petitioner dated 09.11.2017 with regard to his request for review and revocation of the suspension made against him by order dated 02.11.2017 on merits and in accordance with law and



decide the same as to whether the further continuance of the suspension of the petitioner is required in administrative interest or otherwise and pass orders thereon within a period of four weeks from the date of receipt of a copy of this order."

No costs. Consequently connected Miscellaneous Petition is closed.

WEB COPY

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To:

1. The Superintending Engineer
National Highways Department
(Construction and Maintenance)
Tirunelveli.
2. The Divisional Engineer,
National Highways Department
(Construction and Maintenance)
Tenkasi,
Tirunelveli District.
3. The Junior Engineer,
Office of the Assistant Divisional Engineer,
(Construction and Maintenance)
Senkottai,
Tenkasi Division,
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+1cc to Special Government Pleader, SR.No. 62776

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rr

JM/KKR/SAR 3/14.06.2018/3P/5C