

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.02.2019

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU

W.A No.498 of 2019 and
CMP No.4343 of 2019

- 1.The State of Tamil Nadu,
Represented by its
Principal Secretary to Government,
Energy (OP) Department,
Secretariat, Chennai - 600 009.
 - 2.The Secretary to Government,
Personnel and Administrative
Reforms (H1) Department,
Secretariat, Chennai - 600 009.
 - 3.The Deputy Secretary to Government,
Energy (OP) Department,
Secretariat, Chennai - 600 009.Appellants
- Vs
- G.DayalanRespondent

Prayer:- Writ Appeal filed under clause 15 of Letters Patent,
against the order made in W.P.No.26491 of 2017 dated 06.09.2018.

Prayer in W.P.No.26491 of 2018:

Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the entire records relating to the Impugned Orders of Suspension in Office Proceedings No.157 dated 29.12.2016 passed by the 3rd respondent and quash the same as null and void and without jurisdiction and authority and consequently direct the respondents to treat the period of suspension on duty grant all attendant service and monetary benefits to the petitioner from the date of suspension till the date of reinstatement.

For Appellants : Mr.A.SriJayanthi
Special Government Pleader

For Respondent : Mr.R.Arumugam

J U D G M E N T

(Delivered by K.K.SASIDHARAN,J.)

The intra court appeal is taken up for final disposal during the time of admission pursuant to the consent given by the learned counsel on either side.

2. The respondent challenged the order dated 29 December 2016 placing him under suspension before the Writ Court in W.P.No.26491 of 2018. The learned single Judge directed the appellants to consider the case of the respondent for revocation of his suspension primarily on the ground that no charge sheet has been filed against him or any charge memo is pending though two years have passed after placing him under suspension. There was also an indication in the said order that after revoking the suspension, it is open to the authorities to post the respondent in any of the non-sensitive post. Feeling aggrieved by the said direction, the appellants are before this Court.

3. The order passed by the learned single Judge dated 6 September 2018 though contained only a direction to consider the question of revocation, it also gives an indication that after such revocation, the respondent should be posted in a non-sensitive post.

4. The order dated 29 December 2016 placing the respondent under suspension was under challenge before the Writ Court. There was no opportunity to the appellants earlier to consider the revocation of suspension. The question of interfering with the order passed by the authorities would arise only in case they were given an opportunity to consider the revocation of suspension. In the subject case, no such effort was made earlier by the appellants. We are therefore of the view that the order passed by the learned single Judge deserves to be modified.

5. We direct the appellants to review the order of suspension dated 29 December 2016 on merits and as per law. Such exercise shall be completed on or before 30 April 2019.

6. The intra court appeal is allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The State of Tamil Nadu,
Represented by its
Principal Secretary to Government,
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+1cc to Mr.R.Arumugam, Advocate Sr.17414

W.A No.498 of 2019

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srg 03/04/2019

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