

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.3550 of 2019
and
WMP.No.3873 & 3874 of 2019

R.Gunasekaran

.. Petitioner

vs.

The Superintending Engineer,
TANGEDCO,
CEDC/South II/K.K.Nagar,
Chennai 78.

.. Respondent

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, to call for the records of the respondent in Memo No.011560/002862/Adm I/A.1/F.DV&AC-F,O/2018/1 dated 20.12.2018 and quash the same and to direct the respondent not to proceed until disposal by the Hon'ble Supreme Court of India of SLP No.2620 of 2018 filed by the petitioner.

For Petitioner : Mr.T.K.S.Gandhi

For Respondent : Mr.P.R.Dhilip kumar
Standing Counsel for EB Department.

O R D E R

The order of dismissal from service invoking Regulation 20 (I) (IX) of the Tamil Nadu Electricity Board Employee's Provision of Relevant Standing Orders in proceedings dated 20.12.2018 is under challenge in the present writ petition.

2. Admittedly, a Criminal Case was registered against the writ petitioner for demand and acceptance of bribe under Section 13 (2) r/w 13 (1) (d) of Prevention of Corruption Act, 1998. The Trial Court acquitted the writ petitioner from the Criminal Case on benefit of doubt. However, the prosecution preferred a Criminal appeal and the High Court convicted the writ petitioner in Criminal Appeal No.132/2010 dated 08.12.2017. Against the order of conviction, the writ petitioner preferred S.L.P.

(Criminal Case) No. 2620 of 2018. The said appeal is now pending before the Hon'ble Supreme Court of India.

3. In view of the fact that the writ petitioner was convicted in the Criminal Appeal by the Hon'ble High Court of Madras, a notice under the regulation was issued for the purpose of dismissing the writ petitioner from service. On receipt of the explanations from the writ petitioner, the final order of dismissal from service was issued by the competent authority in proceedings dated 20.12.2018. Challenging the said order, the writ petition is filed.

4. The learned counsel for the writ petitioner states that the writ petitioner has preferred an appeal before the Honourable Supreme Court of India and an order of suspension of sentence has already been passed by the Honourable Supreme Court of India and therefore, the writ petitioner must be allowed to continue in service till the appeal pending before the Supreme Court of India is disposed of. Such a proposition now mooted out by the learned counsel for the petitioner deserves no merit consideration, in view of the fact that mere suspension of sentence will not confer any right on the writ petitioner to claim exemption from invoking the provisions of the disciplinary proceedings. The writ petitioner was admittedly convicted by the Honourable High Court of Madras under the Prevention of Corruption Act. Thus, he remains as convicted person and therefore, the notice issued by the respondents under the regulations are in accordance with the rules and there is no infirmity.

5. Only in the event of an order of acquittal by the Honourable Supreme Court of India, the writ petitioner will be getting an opportunity to submit a representation before the authorities concerned for the purpose of restoring his position or claiming service benefits. In the event of confirming the conviction, the writ petitioner is not entitled for any other relief and the relief admissible to the dismissed employee alone can be settled.

6. This being the principles to be followed, there is no infirmity as such in respect of the order of dismissal passed by the respondent and the procedures as contemplated under the regulations were also followed by the respondents and an opportunity was given to the writ petitioner. In view of the fact that the writ petitioner is a convicted person as of now and he is not entitled for any relief in respect of the service benefits claimed in the present writ petition.

7. Accordingly, the present writ petition stands dismissed.
No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Kmm/kak

To

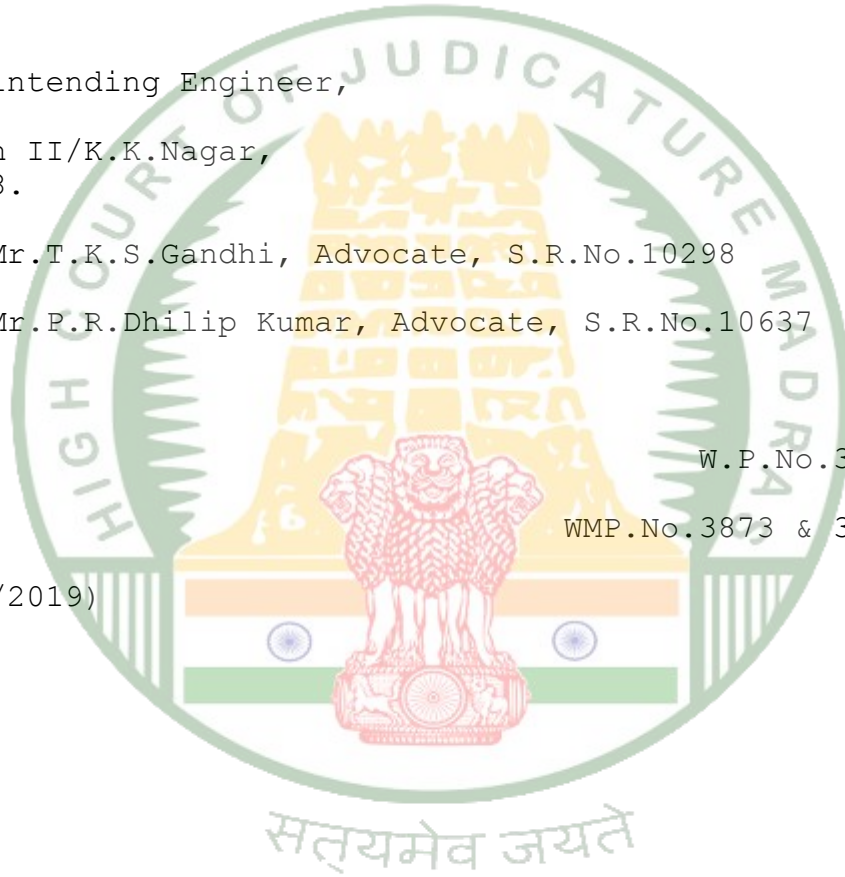
The Superintending Engineer,
TANGEDCO,
CEDC/South II/K.K.Nagar,
Chennai 78.

+1 cc to Mr.T.K.S.Gandhi, Advocate, S.R.No.10298

+1 cc to Mr.P.R.Dhilip Kumar, Advocate, S.R.No.10637

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EV(CO)
SSM(06/03/2019)



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