

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :13.02.2019

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.6297 & 6298 of 2018
and

W.P.M.P.Nos.7779,7780,7781 and 7782 of 2018

K.Anna Kalaignar ..Petitioner
in W.P.No.6297 of 2018

K.Balaraman .. Petitioner
in W.P.No.6298 of 2018

-Vs-

The Director of Information and
Public Relations and Ex. Officio
Joint Secretary to Government,
Secretariat, Chennai -9. .. Respondent
in both petitions

Prayer in W.P.No.6297 of 2018 : Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus, to call for the records of the respondents relating to the impugned order of suspension passed in his Proc. No. 12503/Admin.2/2013 dated 20.06.2013 and his consequential Pro. No. 12503/ Nir.2.1/2013 dated 02.07.2015, quash the same and issue consequential directions to the respondent to reinstate the petitioner in service with all attendant benefits.

Prayer in W.P.No.6298 of 2018 : Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus, to call for the records of the respondents relating to the impugned order of suspension passed in his Proc. No. 12507/Admin.2/2013 dated 20.06.2013 and his consequential Pro. No. 12503/ Nir.2.1/2013 dated 02.07.2015, quash the same and issue consequential directions to the respondent to reinstate the petitioner in service with all attendant benefits.

For Petitioner
in both petitions : Mr.R.Thamaraiselvan

For Respondent
in both petitions : Mr.A.N.Thambidurai,
Special Government Pleader

COMMON ORDER

The order of suspension issued against the writ petitioner in proceedings dated 20.06.2013 is under challenge in the present writ petition. The representation submitted by the writ petitioner to review and revoke the order of suspension was also rejected by the respondent in proceedings dated 02.07.2015, which is also under challenge in the present writ petition.

2 The writ petitioner was initially appointed as Assistant Public Relation Officer (APRO) in the office of the Director of Information, Public Relations and on account of an allegation of demand and acceptance of bribe. A criminal case was registered against the writ petitioner under Sections 7, 12, 13(2) r/w. 13(1) of Prevention of Corruption Act. Consequently, the writ petitioner was placed under suspension by the respondent in proceedings dated 20.06.2013.

3 The learned counsel appearing on behalf of the writ petitioner states that the petitioner is ready to face criminal trial before the competent Court of Law. However, impugned order of suspension issued in proceedings dated 20.06.2013, is liable to be set aside on the ground that prolonged suspension is bad in law and further the criminal trial may take some more time for disposal and keeping the writ petitioner for such a long period under suspension is impermissible.

4 The learned Special Government pleader appearing on behalf of the respondent, opposed the contentions by stating that the writ petitioner is facing a criminal trial and further the allegation is demand and acceptance of bribe, which is serious in nature. Thus the writ petition is liable to be rejected.

5 Considering the facts and circumstances, this Court is of the opinion that the initiation of the disciplinary proceedings and keeping the petitioner under suspension is in accordance with law and there is no infirmity. However, continuance of suspension for about six years is certainly bad in law. In view of the fact that keeping the employee under suspension for any specific period and paying subsistence

allowance without extracting any work is a financial loss to the State Exchequer. Further, disposal of the criminal case may take some more time and under these circumstances keeping an employee under continuous suspension for years together is certainly not preferable. Contrarily the employee shall be reinstated into service and posted in any one of the non sensitive post till the disposal of the criminal case.

6 This apart mere pendency of the criminal case is not a bar for the continuance of the departmental disciplinary proceedings. If the disciplinary authority is in possession of the relevant files and documents for the purpose of continuance of departmental disciplinary proceedings, they are at liberty to continue to issue charge memo and conclude the same and pass final orders in the Disciplinary proceedings. However, if no documents and records are available for the purpose of continuance of departmental disciplinary proceedings, then the competent authority has to take a decision whether it is necessary to keep the departmental disciplinary proceedings in abeyance or not. However, in respect of the impugned order of suspension is concerned, the same cannot be continued as the writ petitioner is under suspension for more than six years. Under these circumstances, the following orders are passed:

1) The order of suspension issued by the respondent in proceedings No.12503/Admin.2/2013 dated 20.06.2013 and the consequential rejection order issued in proceedings No.12503/Admin.2.1/2013 dated 02.07.2015 are quashed .

2) Respondents is directed to reinstate the petitioner forthwith.

3)The respondents are directed to post the writ petitioner in any one of the non sensitive post till the disposal of the criminal case as well as the departmental disciplinary proceedings, as the case may be.

7.Accordingly, these writ petitions stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

dua/nsd

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

To

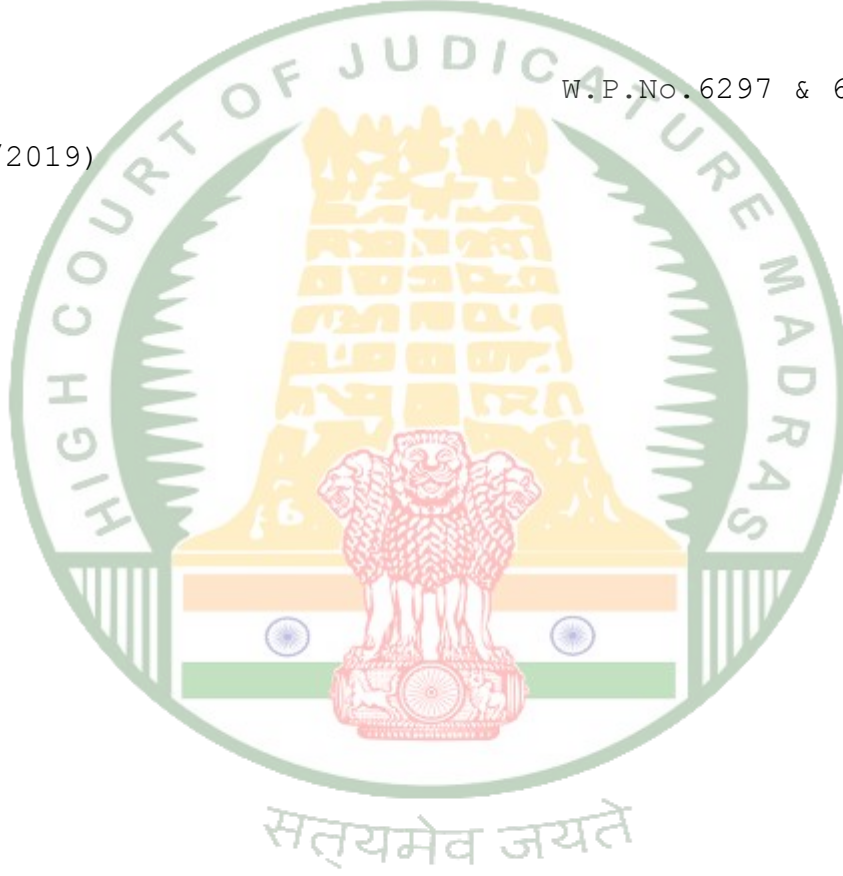
The Director of Information and
Public Relations and
Ex. Officio Joint
Secretary to Government,
Secretariat, Chennai -9.

+lcc to Mr.R.Thamarai Selvan, Advocate, SR.NO..No.13160

+1CC TO GOVERNMENT PLEADER SR.NO.13414

W.P.No.6297 & 6298 of 2018

Kak(13/03/2019)



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