

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.02.2019

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

W.P.No.3923 of 2019
and
W.M.P.No.4352 of 2019

Mr.S.P.Tamilarasan

..Petitioner

-Vs-

1.The State of Tamilnadu
Rep.by its Secretary
Revenue Department
Fort St.George
Chennai - 600 009

2.The Principal Secretary and
Commissioner of Revenue Administration
Chepauk, Chennai - 600 006

3.The District Revenue Officer
Cuddalore District, Cuddalore.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the entire record pertaining to order in Ref RC.No. A3/21786/2017 dated 26-12-2018-1 and ref. RC.No.A3/21786/2017 dated 26-12-2018-2 passed by the 3rd respondent and quash the same and consequently directing the respondents to grant continuity of service and grand all terminal benefits as claimed by the petitioner in his representation dated 26-11-2018 in a time bound period.

For Petitioner : Mr.K.Mohanamurali

For Respondents : Mr.A.N.Thambidurai
Special Government Pleader

O R D E R

The order dated 26.12.2018 issued by the District Revenue Officer, Cuddalore, placing the writ petitioner under suspension for the continuance of the departmental disciplinary proceedings is under challenge in the present writ petition.

2.The writ petitioner joined as Junior Assistant in Taluk office and promoted up to the level of Revenue Inspector. On account of the charge of demand and acceptance of bribe, a criminal case was registered against the writ petitioner under the Prevention of Corruption Act and the learned counsel for the writ petitioner states that the Trial Court convicted the petitioner and on appeal, he was acquitted from the charges by extending the benefit of doubt. In view of the fact that the writ petitioner was acquitted by the Appellate Court, he is entitled to be reinstated in service.

3.Relying the earlier order passed in W.P.No.9646 of 2014 dated 03.04.2014 filed by the writ petitioner, the learned counsel for the petitioner states that the Hon'ble Judge made an observation that "It is needless to point out that in the event, the petitioner is acquitted by allowing the appeal by this Court, the petitioner would certainly be entitled for reinstatement and for other monetary benefits."

4.Undoubtedly, pursuant to the said direction, on receipt of the order of acquittal, the writ petitioner was reinstated in service. However, the continuance of the departmental disciplinary proceedings is an independent action of the respondents, which cannot be tagged along with the order of acquittal passed by the Appellate Court in the criminal appeal.

5.The legal principles to be adopted in this case is that a convicted public servant is liable to be dismissed from service even without conducting an enquiry, but by issuing a show cause notice and in the event of an acquittal by the Appellate Court or by the further Appellate Court, the delinquent officials can be reinstated into service. However, further continuance of departmental disciplinary proceedings under the Discipline and Appeal Rules are certainly permissible. Such an initiation can be done only after the conclusion of the criminal proceedings. Thus, the order of acquittal passed by the Appellate Court is the point with reckoning the period of limitation. Thus, the present impugned order is passed immediately after the order of acquittal passed by the Hon'ble High Court in Criminal Appeal No.580/2013 dated 30.08.2017. There is no delay on the part of the disciplinary authority in taking a decision to continue the departmental disciplinary proceedings against the writ petitioner.

6.The allegation against the writ petitioner is in relation to the demand and acceptance of bribe. The allegation of corruption can never be dealt with leniently and all such corruption cases are to be dealt in accordance with law and without expanding any misplaced sympathy.

7. Mere acquittal in a criminal case on benefit of doubt will not exonerate the delinquent public servant from seeking exemption from continuation of departmental disciplinary proceedings. To convict a person, high standard of proof is required and no such strict proof is required for the purpose of punishing a public servant by the competent authority in a departmental disciplinary proceedings. Therefore, the nature of the criminal proceedings are not akin to that of the departmental disciplinary proceedings. Departmental disciplinary proceedings are independent and even on preponderance of probabilities and on the basis of moral turpitude, a public servant can be punished. However, conviction cannot be granted on the basis of such preponderance of probabilities or on moral turpitude.

8. This being the distinction in respect of the criminal proceedings and departmental disciplinary proceedings, this Court is of an undoubted opinion that even on acquittal, the disciplinary authority is empowered to continue the departmental disciplinary proceedings by reopening the charges initiated prior to the order of acquittal by the competent Court of law.

9. In the present case on hand, it is admitted that the writ petitioner was charged under the provisions of the Prevention of Corruption Act. Initially, he was convicted by the Trial Court. However, he was acquitted by the Hon'ble High Court on benefit of doubt and thereafter, the departmental disciplinary authorities passed an order in proceedings dated 26.12.2018, reinstating the writ petitioner and placing him under suspension for the purpose of continuing the departmental disciplinary proceedings. Such an action can never be construed as irregular or illegal.

10. The learned counsel for the writ petitioner mainly relied on the observations made by this Court in the writ petition filed by the very same writ petitioner earlier in W.P.No.9646/2014 dated 03.04.2014. Even in the order, this Court has stated that on acquittal, the writ petitioner would be entitled for reinstatement and for further benefits. Thus, the said order has been complied with by the competent authorities by reinstating the writ petitioner and further continuance of the departmental disciplinary proceedings as it is permissible, this Court do not find any irregularity in respect of the continuance of departmental disciplinary proceedings now initiated by the competent authorities.

11. Corruption is a social evil and the same is spreading like a cancer in our great Nation. All corruption cases are to be dealt with iron heart and iron hand. Courts can never show

any leniency in corruption cases. Even, the Apex Court ruled that corruption cases cannot be quashed on the ground of delay or latches.

12.This being the principles being followed consistently by the Courts. Mere acquittal on benefit of doubt will not confer any reinstatement directly. Even in case of reinstatement, the authorities competent are empowered to continue the departmental disciplinary proceedings for the purpose of imposing penalty, if the charges are proved against the writ petitioner based on the materials and the documents available with the department.

13.This being the principles to be followed, this Court has no hesitation in coming to the conclusion that the respondents have rightly initiated action for the continuance of the departmental disciplinary proceedings based on the records available with the department and the only observation is to be made is that the respondents are bound to continue the departmental disciplinary proceedings without any lapse of time and conclude the same by providing opportunity to the writ petitioner at the earliest possible and without any undue delay. The respondents are directed to continue the departmental disciplinary proceedings by following the rules in force and conclude the same and pass final orders as expeditiously as possible and preferably within a period of 6 months from the date of receipt of a copy of this order.

14.The writ petitioner is directed to co-operate with the enquiry proceedings and in the event of non-cooperation on the part of the writ petitioner, the same shall be recorded both by the enquiry officer and by the disciplinary authority in the proceedings itself.

15.Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary
Revenue Department
Fort St.George
Chennai - 600 009

2. The Principal Secretary and
Commissioner of Revenue Administration
Chepauk, Chennai - 600 006

3. The District Revenue Officer
Cuddalore District, Cuddalore.

+1cc to M/s.K. Mohanamurali, Advocate, S.R.No.11614/19

+1cc to the Government Pleader, S.R.No.12837/19

W.P.No.3923 of 2019

Kak(13/03/2019)



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