

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :15.02.2019

CORAM

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

W.P.No.6833 of 2018
and
W.M.P.No.8460 of 2018

T.B.Mohandass

...Petitioner

vs

1.The Transport Commissioner
Transport Department,
Chepauk, Chennai - 600 005.

2.The Regional Transport Officer,
Poonamallee.

...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 records on the file of the 1st respondent in his proceedings R.No.24533/VA1/2011 dated 28.02.2018 and quash the same.

For Petitioner : Mr.M.Vijayakumar

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

O R D E R

The order of suspension issued by the 1st respondent in proceedings dated 28.02.2018 is sought to be quashed in the present writ petition.

2.The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner was initially appointed as Typist on 04.02.1991. The petitioner was promoted to the Post of Superintendent on 08.02.2007 and thereafter, promoted to the Post of Motor Vehicle Inspector with effect from 23.06.2010.

3.It is contended that pursuant to the orders of the Hon'ble High Court passed in W.P.No.13294/2015 dated 22.02.2018, the impugned order of suspension has been issued.

4.The learned counsel for the writ petitioners states that the authorities ought not to have placed the writ petitioner under suspension based on the orders of the Honb'le High Court. The writ petitioner was not provided with an opportunity to plead his innocence before issuance of the order of suspension, which is impugned in the present writ petition. Thus, the present order of suspension is liable to be scrapped.

5.The learned counsel for the petitioner states that the criminal case was registered against the Assistant Mr.P.Sundarapandian and he was the Accused in the criminal case. The criminal case was registered at the instance of the writ petitioner and by taking vengeance, the said Mr.P.Sundarapandian, had given a false information, based on which, the impugned order of suspension has been issued. For all these reasons, the writ petition deserves to be allowed.

6.The learned Special Government Pleader appearing on behalf of the respondents opposed the contention by stating that the Police filed Charge Sheet, in which, the writ petitioner, Mr.T.B.Mohandass is arrayed as 2nd Accused, Mr.P.Sundarapandian is the 1st Accused. The criminal case is now pending for Trial before the Judicial Magistrate Court, Alandur. This apart, the very complaint was registered by the Central Crime Branch, based on the complaint given by the Regional Transport Officer. Thus, the writ petitioner has to prove his innocence before the Criminal Court of law as well as before the departmental disciplinary authority.

7.Though the learned counsel for the writ petitioner argued the matter on the merits of the allegations raised against the writ petitioner, this Court is not inclined to consider the merits and the demerits of the case. At this juncture, since the order of suspension is not a punishment and it is only an initiation of disciplinary proceedings. The order of suspension itself is not a punishment. The very object of the suspension is that to keep away the public servant from the office, enabling the disciplinary authority to conduct the disciplinary proceedings in a free and fair manner.

8.This being the very object of the order of suspension, this Court is of the considered opinion that the writ petitioner has to participate in the disciplinary proceedings and establish his innocence or otherwise by availing the opportunities to be provided under the rules by the authorities.

9. Undoubtedly, prolonged suspension is not preferable. On initiation of departmental disciplinary proceedings, the authorities have to conclude the same at the earliest possible and without causing any undue delay. In the event of long delay in disposing of the departmental disciplinary proceedings, then the authorities competent is bound to review the order of suspension for revocation. In the event of revocation, the delinquent officials may be posted in a non sensitive post till the completion of the departmental disciplinary proceedings. Further, mere pendency of the criminal case is also not a bar for a continuance of the departmental disciplinary proceedings. However, continuance of departmental disciplinary proceedings depends on the availability of the documents and files with the disciplinary authority.

10. In the present case on hand, the allegations are in relation to the misappropriation and the learned counsel for the writ petitioner states that the petitioner is no way connected with the misappropriation and the other Accountant Mr. P. Sundarapandian, was the 1st Accused in the criminal case. Though the name of the writ petitioner had not been included as Accused in the F.I.R, the learned Special Government Pleader now submitted the copy of the charge sheet filed by the Police, wherein the name of the writ petitioner has been included as an Accused No.2.

11. This being the factum of the case, this Court is not inclined to consider the relief as such sought for in the present writ petition and it is left open to the authorities to review the order of suspension during an appropriate time and by following the procedures.

12. With these observations, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

To

1. The Transport Commissioner
Transport Department,
Chepauk, Chennai - 600 005.

2.The Regional Transport Officer,
Poonamallee.

+1cc to the Government Pleader, S.R.No.15131/19

W.P.No.6833 of 2018

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