

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27-03-2019

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.7169 of 2019

and

W.M.P.Nos.7891 and 7894 of 2019

R.Velmurugan

.. Petitioner

Vs.

The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai-600 003.

.. 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, calling for the records relating to the impugned Suspension Order in G.D.C.No. E1/15394/2008 dated 24.4.2008 issued by the respondent herein, quash the same and consequently direct the respondent to reinstate the petitioner in service .

For Petitioner : Mr.S.Haja Mohideen Gisthi

For Respondent : Mrs.Karthikaa Ashok,
Standing Counsel

सतयमेव जयते
O R D E R

The order of suspension dated 24.4.2008 placing the writ petitioner under suspension, is under challenge in the present writ petition.

2. The writ petitioner was placed under suspension on account of the fact that he was trapped and a criminal case was registered in Crime No.1/AC/2008/CC-III under Section 7, 13(2) r/w Section 13(1)(d) of the Prevention of Corruption Act, 1988.

3. The learned counsel for the writ petitioner, challenging the criminal case registered against the writ petitioner by the Department of Vigilance and Anti-Corruption, states that the said criminal case is still pending and the trial is in progress. However, keeping the writ petitioner under suspension for an unspecified period is bad in law.

4. The learned counsel, appearing on behalf of the respondent, opposed the said contentions of the learned counsel for the writ petitioner by stating that the writ petitioner was trapped and arrested for the allegation of demand and acceptance of bribe. Therefore, no leniency can be shown and the writ petition is liable to be rejected.

5. Prolonged suspension is bad in law. On initiation of disciplinary proceedings, undoubtedly an employee shall be placed under suspension by the Competent Authority. However, the authorities competent must ensure that the departmental disciplinary proceedings initiated against the employees are concluded within a reasonable period of time. In the event of an enormous delay in concluding the departmental disciplinary proceedings, then the authorities competent must review the order of suspension for its revocation. If it is not possible for the authorities to conclude the departmental disciplinary proceedings, then the order of suspension can be revoked and the employees shall be reinstated into service and post in any one of the non-sensitive post till the conclusion of the departmental disciplinary proceedings as well as the criminal case registered against him. Contrarily, an employee cannot be kept under suspension for years together without any progress in departmental disciplinary proceedings.

6. Undoubtedly, disposal of the criminal case may take long years by the Competent Court of law. However, there is no bar for the disciplinary authorities to continue the departmental disciplinary proceedings even during the pendency of the criminal case. In other words, mere pendency of the criminal case is not a bar for the continuance of the departmental disciplinary proceedings. If the files, materials and other records are available with the authorities competent, then they are at liberty to continue the departmental disciplinary proceedings, conclude the same and pass final orders pending disposal of the criminal case.

7. If an employee, after departmental disciplinary proceedings, is convicted by the Competent Court of Law, then further actions shall be taken or the earlier orders shall be reviewed for issuing appropriate orders based on the conviction. There is no impediment for the authorities on initiation of fresh proceedings, if a public servant is convicted in criminal case by the competent Court of Law. Considering all these aspects, the disciplinary authorities shall continue the departmental disciplinary proceedings and pass final orders pending disposal of the criminal case. This being the legal principles settled by the Constitutional Courts, the authorities need not keep an employee under suspension for an unspecified period. Keeping an employee under suspension for long years and paying subsistence allowance for an unspecified period is causing financial loss to the State exchequer. Payment of subsistence allowance without extracting work is a financial loss to the State

exchequer. Thus, the authorities must be vigilant and review the order of suspension periodically and if there is no impediment, conclude the disciplinary proceedings and pass final orders.

8. In the case on hand, the order of suspension was issued long back and the writ petitioner is under continuous suspension without any progress in the departmental disciplinary proceedings as well as the criminal case. This being the factum of the case, this Court is of an opinion that there is no useful purpose would be served in keeping the writ petitioner under suspension for further period and accordingly the following orders are passed:-

(i) The impugned order of suspension passed by the respondent in G.D.C.No.E1/15394/2008, dated 24.4.2008 is quashed.

(ii) The respondent is directed to reinstate the petitioner in service.

(iii) The respondent is directed to post the writ petitioner in any one of the non-sensitive post till the conclusion of the departmental disciplinary proceedings as well as the criminal case registered against the writ petitioner.

9. Accordingly, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

Svn

To

The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai-600 003.

+1cc to Mrs.Karthikaa Ashok , Advocate SR.No. 29686

+1cc to Mr. Mr.S.Haja Mohideen Gisthi, Advocate SR.No. 29638

W.P.No.7169 of 2019

NMI (CO)

A.SK(22/04/2019)