

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :02.04.2019

CORAM

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

W.P.No.7375 of 2019
and
W.M.P.No.8051 of 2019

R.Gugan

... Petitioner

..vs..

- 1.The Additional Chief Secretary to Government,
Home (Pol.IV) Department,
Secretariat, Chennai - 9.
 - 2.The Director General of Police,
Tamil Nadu, Chennai - 4.
 - 3.The Deputy Inspector General of Police,
Coimbatore Range, Coimbatore - 18.
- ...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 pertaining to the order of the third respondent herein passed in his C.No.D1/9524/2010, Range Order:374/2010 dated 14.12.2010 placing the petitioner under suspension and the consequential order passed by the first respondent herein in his Letter No.8743/Pol-IV/2017 - 12 dated 07.11.2017 rejecting the petitioner's request to revoke the suspension order and quash the same and consequently direct the respondents herein to revoke the petitioner's suspension order with all consequential benefits.

For Petitioner : Mr.Ravi Shanmugam

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

ORDER

The order of suspension issued in proceedings dated 14.12.2010, is under challenge in the present writ petition.

2. The writ petitioner who was working as Inspector of Police, was placed under suspension contemplation sequel to PSO 151 enquiry against the writ petitioner on account of the death of one Mr. Krishnamoorthy, S/o. Marimuthu, while under custody, the criminal case registered against the writ petitioner is still pending.

3. The learned counsel for the writ petitioner states that the writ petitioner is defending the criminal case and the departmental disciplinary proceedings are not progressed. Under these circumstances, keeping the writ petitioner under suspension for an unspecified period is bad in law.

4. Undoubtedly, the writ petitioner has to face both the departmental disciplinary proceedings as well as the criminal proceedings for the purpose of establishing his innocence or otherwise. However, further continuance of the order of suspension, now after a lapse of about 8 & ½ years is certainly not preferable.

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 1st respondent in his letter No.8743/Pol-IV/2017 - 12, dated 07.11.2017 is quashed.

(ii) The respondents are directed to reinstate the petitioner in service.

(iii) The respondents are 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 present writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

- 1.The Additional Chief Secretary to Government,
Home (Pol.IV) Department,
Secretariat, Chennai - 9.
- 2.The Director General of Police,
Tamil Nadu, Chennai - 4.
- 3.The Deputy Inspector General of Police,
Coimbatore Range, Coimbatore - 18.

+1cc to Mr.Ravi shanmugam, Advocate Sr.31831

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srg 02/05/2019

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