

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :22.03.2019

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

W.P.No.11078 of 2018

and

W.M.P.No.12987 of 2018

S.Kannan

..Petitioner

vs

The Chief Engineer/Distribution
Chennai Region / South,
Tamil Nadu Electricity Board
Chennai - 600 002.

..Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the respondent in his Memo.No.05283/284/ Adm.A/A3/F.Kannan/2014 dated 16.04.2014 and quash the same and consequently direct the respondent to reinstate the petitioner into service with backwages, all attendant benefits and other monetary benefits to the petitioner.

For Petitioner : Mr.C.Prakasam

For Respondent : Mr.P.R.Dhilipkumar

Standing counsel
for Tamil Nadu Electricity Board

O R D E R

The order of suspension dated 18.06.2009 as well as the rejection order, rejecting the claim of the writ petitioner for revocation of suspension in proceedings dated 16.04.2014 are under challenge in the present writ petition.

2.Undoubtedly, the allegations against the writ petitioner is serious. Demand and acceptance of bribe is the allegation and a criminal case was registered against the writ petitioner and the same is pending for Trial. However, this Court has repeatedly ruled that prolonged suspension is bad in law. The order of suspension is to be reviewed periodically, considering the changed circumstances as well as the progress made in the Notification and in the criminal Trial.

3.Beyond this, the learned counsel for the writ petitioner made submission that the writ petitioner is due to retire from service on 31st March 2019, on attaining the age of superannuation. A public servant, facing a criminal case on the eve of his retirement cannot be allowed to retire from service and his services are to be retained and he must be placed under suspension. However, a separate orders are to be passed by the competent authority at the time of relieving the writ petitioner from service.

4.Under these circumstances, revoking the order of suspension now under challenge in the present writ petition would not serve any purpose and the writ petitioner has to wait for the final disposal of the criminal case as well as the departmental disciplinary proceedings. The suspension order and retention of service, if any passed on the last date of retirement, cannot be challenged in view of the fact that the writ petitioner attained the age of superannuation.

5.Under these circumstances, the petitioner is bound to defend his case both before the competent Court of Law as well as before the departmental disciplinary proceedings. Only after the disposal of the criminal case as well as the departmental disciplinary proceedings, the writ petitioner is at liberty to approach the competent authority for the purpose of redressing his grievances including claiming of terminal and retirement benefits.

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

Sd/-

Assistant Registrar(CS iii)

//True Copy//

Sub Assistant Registrar

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To
The Chief Engineer/Distribution
Chennai Region / South,
Tamil Nadu Electricity Board, Chennai - 600 002.

+1cc to Mr.P.R.Dhilipkumar , Advocate SR.No. 27722

+1cc to Mr. C.Prakasam, Advocate SR.No. 28787

W.P.No.11078 of 2018

sv (CO)

A.SK(22/04/2019)