

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29-04-2019

CORAM

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

W.P.No.11328 of 2019

J.Mathialagan

.. Petitioner

..Vs..

1.The Chairman,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
(TANGEDCO), NPKRR Maaligai,
No.144, Anna Salai,
Chennai-600 002.

2.The Chief Engineer (Personnel),
Tamil Nadu Generation and Distribution
Corporation Ltd.,
(TANGEDCO), NPKRR Maaligai,
No.144, Anna Salai,
Chennai-600 002.

3.The Superintending Engineer,
CEDC/North/TANGEDCO,
Chennai-600 002.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records and quashing the impugned order dated 11.5.2012 of the third respondent vide Memo No.115/Adm.II/A4/F.Suspension/2012 suspending the petitioner with effect from 9.5.2012 on account of his having involved in Cr.No.9/AC/2012/CC-I/Dt. 10.5.2012 of the Vigilance and Anti-Corruption City Special Unit under Sections 7, 13(2) r/w Section 13(i)(d) of Prevention of Corruption Act and consequently direct the respondents to reinstate the petitioner as Wireman in any non-sensitive post.

For Petitioner : Mr.K.Ravi Anantha Padmanaban

O R D E R

The order of suspension date 11.5.2012, issued by the third respondent, is under challenge in the present writ petition.

2. The writ petitioner, who was holding the post of Wireman, was prosecuted under the provisions of the Prevention of Corruption Act. The allegation against the writ petitioner was demand and acceptance of illegal gratification of Rs.5,000/- from the complainant.

3. The learned counsel for the writ petitioner states that the writ petitioner is under continuous suspension for about 6-1/2 years and even the order of suspension has not been reviewed despite the fact that the criminal case registered against the writ petitioner is pending for a long time.

4. This Court is of the considered opinion that the allegations against the writ petitioner are undoubtedly serious in nature and the Court cannot show any leniency or misplaced sympathy in respect of corruption cases. However, keeping an employee under suspension for an unspecified period is not desirable in view of the fact that the same would not serve any purpose at all.

5. Contrarily, the authorities competent must be vigilant in pursuing the criminal case as well as the departmental disciplinary proceedings initiated against the writ petitioner by keeping him in a non-sensitive post. Thus, the writ petitioner is constrained to move the present writ petition.

6. Prolonged suspension is bad in law. Keeping an employee under suspension for an unspecified period is certainly undesirable. On initiation of departmental disciplinary proceedings, the authorities competent must ensure that the proceedings are concluded within a reasonable period of time and without causing any undue delay. Thus, the competent authority must be vigilant in respect of concluding the departmental disciplinary proceedings at the earliest possible. Undoubtedly, long pendency of the departmental disciplinary proceedings would cause prejudice to the interest of the employees and they are being deprived of their service benefits including promotion and settlement of terminal and pensionary benefits.

7. This being the adverse impact on prolonged suspension, this Court is of an opinion that the order of suspension is to be reviewed periodically by the respondents based on the facts and circumstances as well as on the

developments took place in the investigations or otherwise. Contrarily, if an employee is placed under suspension for an unspecified period, without any progress, certainly, it will cause prejudice to the Delinquent Employees as well as cause monetary loss to the public exchequer. If an employee is paid subsistence allowance for years together without extracting any work, such a payment of huge amount of subsistence allowance for years together without extracting any work will cause great financial loss to the public exchequer. The Competent Authorities have no authority to waste the public money in this way and every authority is bound to be vigilant, in respect of the payment of public money in all such type of cases.

8. Competent Officials of the State as well as the Departments are the custodians of the tax payers money and they have got every duty to protect the public money and spend the same judiciously and in accordance with law. A public official wasting the tax payers money is committing misconduct and it is necessarily that such officials are also to be booked under the Discipline and Appeal Rules. The money of the tax payers are spend by the public officials without considering the circumstances and other aspects

9. This apart, an employee is not allowed to take employment anywhere during the period of suspension. If a person is made to sit ideally without any work for number of years, the same would cause a mental agony, which is not good for the betterment of the society in general. All these aspects are to be considered, while prolonging the period of suspension. Even, at the time of reviewing the order of suspension, the authorities competent must take into consideration of all these aspects and if necessary, revoke the order of suspension and post such employee in any one of the non-sensitive post till the conclusion of the departmental proceedings or criminal case. In view of the fact that the writ petitioner is under suspension for the past seven years, there is absolutely no progress in the Departmental Disciplinary Proceedings.

10. Under these circumstances, this Court is of an opinion that the present writ petition is to be considered. Accordingly, the following orders are passed:-

(1) The impugned order of suspension issued by the third respondent in Memo No.115/ Adm.II/A4/ F.Suspension/2012 dated 11.5.2012 is quashed.

(2) The respondents are directed to reinstate the writ petitioner forthwith.

(3) 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.

11. With the above directions, the writ petition stands allowed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Svn

To

- 1.The Chairman,
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Chennai-600 002.

+1cc to Mr.K.Ravi Anantha Padmanaban, Advocate Sr.41867

gj II[col]
srg 23/05/2019

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