

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.13412 of 2018

and

W.M.P.Nos.15810 & 15811 of 2018

K.M.Subramaniam

.. Petitioner

..vs..

1. The Chairman,
Tamil Nadu Electricity Board,
Nadippisai Pulavar K.R.Ramasamy Building
No.144, Anna Salai,
Chennai - 600 002.
2. The Secretary,
Tamil Nadu Electricity Board,
Nadippisai Pulavar K.R.Ramasamy Building,
No.144, Anna Salai,
Chennai - 600 002.
3. The Deputy Superintendent of Police,
Vigilance and Anti-Corruption Wing,
Tirupur - 661 030.

... 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 culminating in the order of suspension dated 21.10.2014 bearing Memorandum Number 85495/A5/A52/2014-1, issued by the 2nd respondent and quash the same and direct the respondents 1 & 2 to reinstate the petitioner in service.

For Petitioner : Mr.M.Aravind Subramaniam

For Respondent : Mr.P.R.Dhilip Kumar for R1 & R2
Mr.R.S.Selvam,
Government Advocate for R3

O R D E R

The order of suspension dated 21.10.2014, is under challenge in the present writ petition. The writ petitioner, who was holding the post of the Executive Engineer had been trapped and arrested by the Vigilance and Anti Corruption, Tiruppur. Accordingly, a criminal case was registered under the Prevention of Corruption Act, 1988. Consequently, the writ petitioner was placed under suspension in Proceedings dated 21.10.2014.

2. The learned counsel for the writ petitioner states that undoubtedly, the writ petitioner was trapped and arrested. However, an order of suspension is continuing for the past more than 5 years and the authorities competent have not reviewed the order of suspension, despite the fact that, the criminal case is still pending.

3. 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.

4. 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.

5. 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.

6. 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 2nd respondent in his Memo No85495/A5/A52/2014-1, dated 21.10.2014 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.

7. Accordingly, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Pns

To

1. The Chairman,
Tamil Nadu Electricity Board,
Nadippisai Pulavar K.R.Ramasamy Building
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2. The Secretary,
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3. The Deputy Superintendent of Police,
Vigilance and Anti-Corruption Wing,
Tirupur - 661 030.

+lcc to Mr.M.Aravind Subramaniam, Advocate, S.R.No.28193

+lcc to Mr.P.R.Dhilip Kumar, Advocate, S.R.No.27721

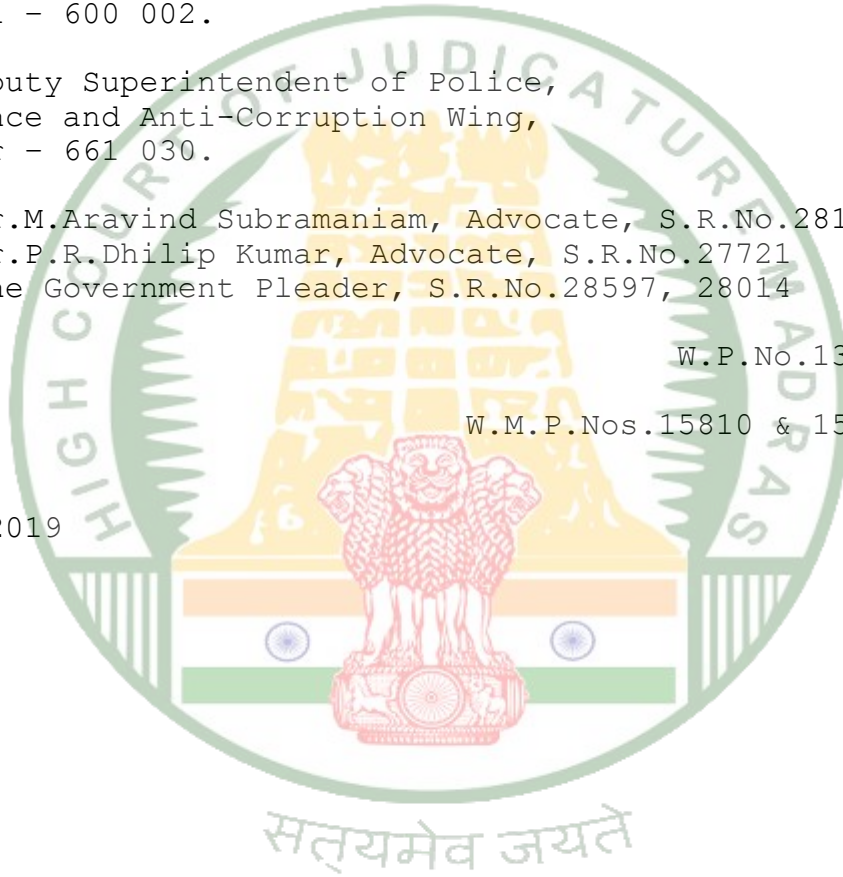
+lcc to the Government Pleader, S.R.No.28597, 28014

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RSV(CO)
CS/30/04/2019



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