

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :25.02.2019

CORAM

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

W.P.No.13699 of 2018

and

W.M.P.Nos.16158 & 16159 of 2018

A.Venkatesan

.. Petitioner

..vs..

The Superintending Engineer,
CEDC/South/K.K.Nagar,
Tamil Nadu Electricity Board,
Chennai - 600 078.

..Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned order passed by the respondent in his Memo.No.009518/414/Adm.I/A4.DVAC-SUS/2010, dated 11.06.2010 and consequential rejection order passed by the respondent in his Memo No.006096/P.R.No.1279/Adm.I/A.4/F.4.Venkatesan/14, dated 28.04.2014 and quash the same and consequently direct the respondent to reinstate the petitioner into service with all attendant benefits and other benefits.

For Petitioner : Mr.C.Prakasam

For Respondent : Mr.P.R.Dhilip Kumar

O R D E R

The order of suspension dated 11.06.2010, on account of the registration of Criminal Case under the provisions of the Prevention and Corruption Act, is under challenge in the present writ petition.

2. The writ petitioner was placed under suspension in respect of the criminal offence by demanding Rs.3,500/- as illegal gratification and accepted Rs.3,500/- from Thiru.M.S.Venkata Narayanan, in this regard, the criminal case was registered and the same is pending.

3. In view of the fact that the writ petitioner is under continuous suspension for about 9 years, this Court is of the considered opinion that the petitioner shall be reinstated into service and post him in any one of non-sensitive post till the

conclusion of the criminal case as well as departmental disciplinary proceedings.

4. It is contended that the disciplinary proceedings are kept in abeyance, till the final disposal of the criminal case. This Court is of the considered opinion that, the procedures to be adopted in the criminal case as well as in the departmental proceedings are distinct and different. For convicting a person under the criminal law, a strict and high standard of proof is required. However, no such strict or high standard of proof is required for punishing a Government employee under the Discipline and Appeal Rules. Even preponderance of probabilities are enough to punish an employee. Even a moral turpitude is sufficient to punish an employee under the Discipline and Appeal Rules as well as under the Government Servants Conduct Rules. Thus, the standard of proof required for a criminal case and the departmental disciplinary proceedings are separate and distinct.

5. This being the factum, there is no bar for the departmental disciplinary proceedings to proceed with the enquiry proceedings and conclude the same and take decision independently in respect of the merits and based on the documents available with the department.

6. The impugned order issued by the respondent in Proceedings Memo.No.009518/414/Adm.I/A4.DVAC-SUS/2010, dated 11.06.2010 is quashed.

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

-s/d-

Assistant Registrar (CS-I)

True Copy

Sub-Assistant Registrar

To

The Superintending Engineer,
CEDC/South/K.K.Nagar,
Tamil Nadu Electricity Board,
Chennai - 600 078.

+1 CC to Mr.C.Prakasam, Advocate sr 17785.

+1 CC to Mr.P.R.Dhilip Kumar, Advocate sr 17315.

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SP(14/03/2019)