

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2019

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.2311 of 2018
and
WMP.No.2829 of 2018

V.Kumar

...Petitioner

Vs

1. The Superintending Engineer,
TANGEDCO, KEDC,
Kancheepuram.
2. The Inspector of Police,
Vigilance and Anti Corruption,
Kancheepuram.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ or order in the nature of a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in Memo No.008869/AdmS/Adm4/A2/F.DP/2017 dated 25.09.2017 and to quash the same and consequently direct the 1st respondent to reinstate the Petitioner with full back wages with original seniority in the post of Junior Engineer Grade-1.

For Petitioner : Mr.K.Venkataramani
Senior counsel for
Mr.M.K. Subrmanian

For Respondent 1 : Mr.P.R.Dhilip Kumar

for R2 : Mr.P.Rajalakshmi,
Addl.Government Pleader

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O R D E R

The order of suspension dated 25.09.2017 placing the writ petitioner under suspension, on account of the registration of a criminal case by the Vigilance and Anti-Corruption Department at Kancheepuram is under challenge in the present writ petition.

2. The writ petitioner was initially appointed as a Technical Assistant in Tamil Nadu Electricity Board. Further, he was promoted to the post of Junior Engineer Grade-I. On account

of trap set by the complainant, the Department of Vigilance and Anti-Corruption registered a criminal case against the writ petitioner in Cr.No.5/AC/2017/KM at Kancheepuram under Section 7, 13(1)(3) r/w Section 13(2) of Prevention of Corruption Act 1988. The allegations against the writ petitioner is that one Mr.K.Selvam residing at Tiruttani, submitted a complaint that the writ petitioner demanded the illegal gratification of Rs.2800/- for the transfer of electricity service connection in his favour. Admittedly, the criminal case registered against the writ petitioner is pending and the investigations are in progress.

3. This Court is of the considered opinion that, all such cases of corruption registered against the public servant must be pursued vigilantly and without causing any undue delay. In the event of trap and registration of a criminal case under the provisions of Prevention of Corruption Act 1988, the Police officials must be in a position to file charge sheet and proceed with the trial without causing any undue delay.

4. Undoubtedly, long pendency of the criminal case as well as the departmental disciplinary proceedings would cause prejudice to the employees also. This being the factum, the Authorities on registration of the criminal case as well as the Disciplinary Authority on initiation of disciplinary proceedings must ensure that, all such proceedings initiated are concluded within a reasonable period of time. Vigilant over all such proceedings and periodical review of the proceedings are certainly imminent.

5. In the present case on hand, the writ petitioner was arrested and released immediately on the same day. The criminal case was registered under the provisions of the Prevention of Corruption Act 1988. Courts would not decide such corruption cases in a lenient manner. Corruption is spreading like a cancer in our great Nation. All corruption cases are to be dealt with in accordance with law and there cannot be any leniency or misplaced sympathy. It is for the writ petitioner to establish his innocence by participating in the trial as well as in the departmental disciplinary proceedings.

6. This Court is of the further opinion that mere pendency of the criminal case is not a bar for the continuance of departmental disciplinary proceedings. To convict a person under the criminal law, a strict and high standard of proof is required. However, to punish an employee under the Disciplinary and Appeal Rules, morale turpitude and preponderance of probabilities are enough. Therefore, the nature of criminal case is distinct from that of the departmental disciplinary proceedings.

7. A public servant can be punished under the Disciplinary and Appeal Rules, on account of certain morale turpitude which all are established. This being the nature of the proceeding, this Court is of an opinion that, there is no bar for the Disciplinary Authority to continue the departmental disciplinary proceedings, even during the pendency of the criminal case. The only yardstick to be adopted is that, the Disciplinary Authority is possessing the relevant document and capable of continuing the departmental disciplinary proceedings. The Competent Authorities must take a decision, whether materials are available to continue the departmental disciplinary proceedings or to keep the proceedings in abeyance till the final disposal of the criminal case. If such a decision is taken, the order of suspension is also to be reviewed with reference to the legal principles stated above.

8. Thus, it is made clear that the Disciplinary Authority shall take a decision to proceed with the departmental disciplinary proceedings and conclude the same and pass final orders based on the materials and documents available with the department or to keep the departmental disciplinary proceedings in abeyance, till the final disposal of the criminal case. In the event of taking a final decision to keep the departmental disciplinary proceedings in abeyance till the disposal, then a decision may be taken to review the suspension order periodically considering the time delay caused for the disposal of the criminal case.

9. This being the principles to be followed, this Court is of an opinion that, the relief as such sought for in the present writ petition to quash the suspension order cannot be considered at this point of time and all such deliberations can be made only by the Competent Authorities based on the progress of the case made against the writ petitioner.

10. With these observations, the writ petition stands dismissed. No Costs. Consequently connected miscellaneous petition is closed.

s/d-

Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

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To

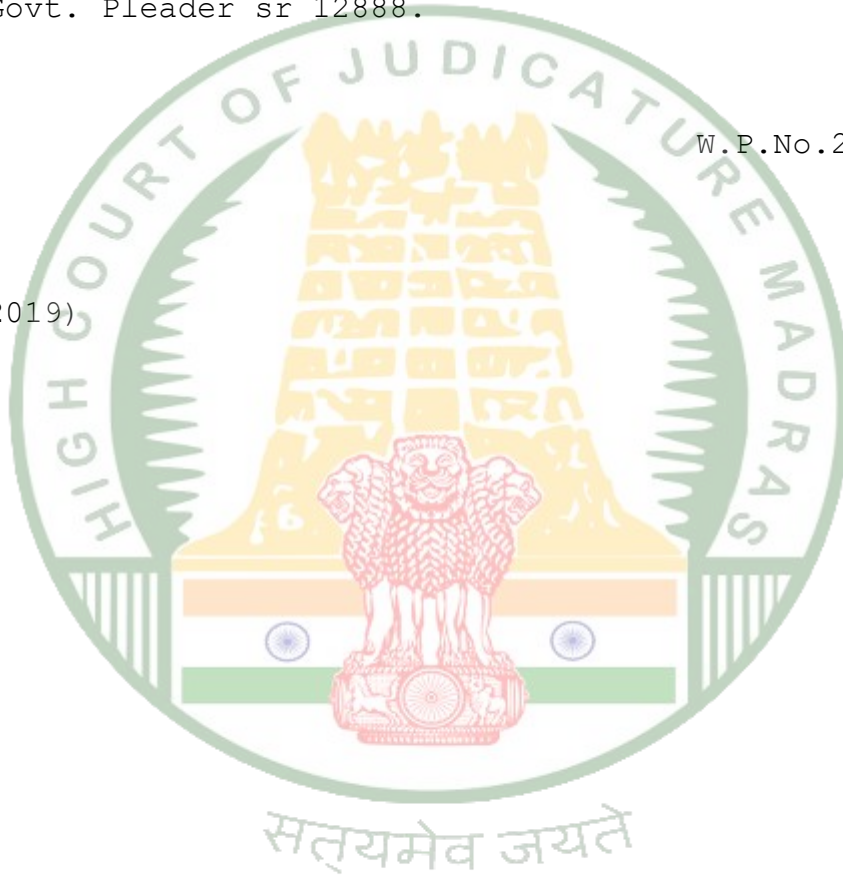
1. The Superintending Engineer,
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Kancheepuram.

+1 CC to Mr.P.R.Dhilip Kumar, Advocate sr 12270.

+1 CC to Govt. Pleader sr 12888.

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PM(CO)
SP(14/03/2019)



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