

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.14854 of 2018
and
W.M.P.No. 17580 of 2018

K.Rajeshkannan

.. Petitioner

Vs.

1. The Chairman
Tamil Nadu Generation and Distribution Corporation Ltd.,
(TANGEDCO)
NPKRR Maaligai
144, Anna Salai
Chennai - 600 002.
2. The Superintending Engineer
CEDC/South II,
Tamil Nadu Generation and Distribution Corporation Ltd.,
(TANGEDCO)
NPKRR Maaligai
144, Anna Salai
Chennai - 600 002.
3. The Chief Engineer - Personnel
Tamil Nadu Generation and Distribution Corporation Ltd.,
(TANGEDCO),
NPKRR Maaligai
144, Anna Salai
Chennai - 600 002.

.. Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for records of 2nd respondent in Memo No. PR No.313/ADm.I/A4/F.DVAC-SUS/2012, dated 12.03.2012 and quash the same and consequently permit the petitioner to rejoin duty service as Commercial Assistant with all attendant/consequential benefits.

For Petitioners : M/s.S.Praveen Kumar

For Respondents : Mr.P.R.Dhilipkumar
Standing Counsel

O R D E R

The writ petitioner, on account of a trap case and on registration of a criminal case for demand and bribe of Rs.1800/-, the writ petitioner was arrested and subsequently, placed under suspension. Undoubtedly, the allegations against the writ petitioner are serious in nature warranting on enquiry. However, the writ petitioner is under prolonged suspension for more than 6 & ½ years.

2. 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.

3. 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.

4. 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.

5. 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 No. PR No.313/Adm.I/A4/F.DVAC-SUS/2012, dated 12.03.2012 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.

6. Accordingly, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

Kmm/pns

To

1. The Chairman
Tamil Nadu Generation and Distribution Corporation Ltd.,
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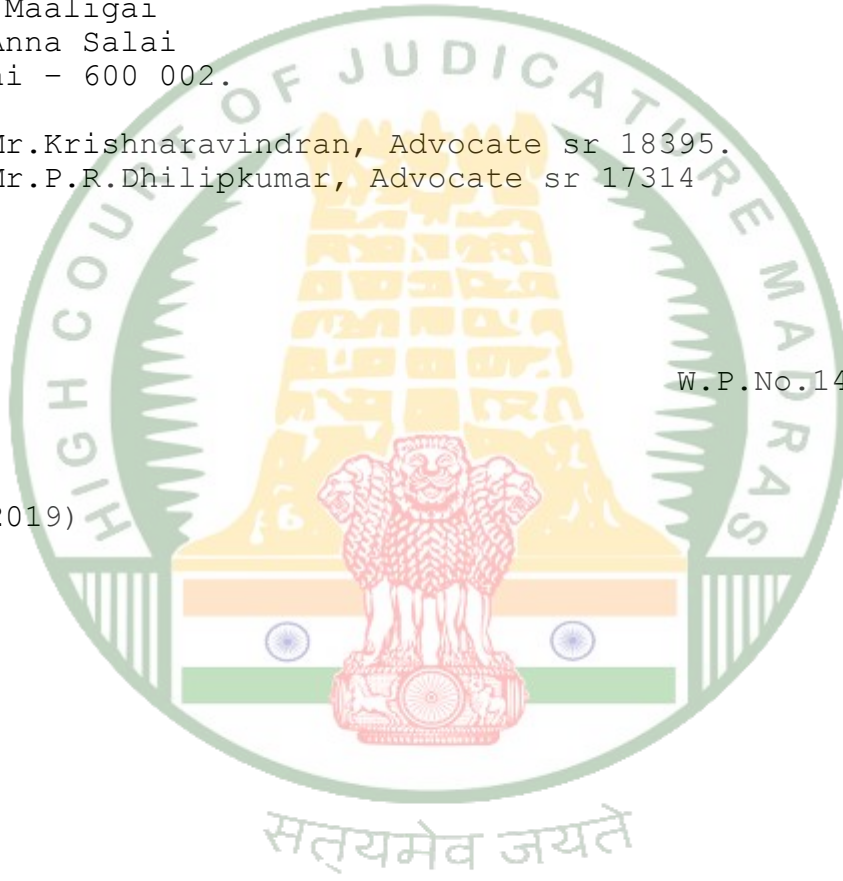
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+1 CC to Mr.Krishnaravindran, Advocate sr 18395.

+1 CC to Mr.P.R.Dhilipkumar, Advocate sr 17314

W.P.No.14854 of 2018

SP(12/03/2019)



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