

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.15039 of 2018

and

W.M.P.Nos. 17807 & 17808 of 2018

D.Baskaran

.. Petitioner

Vs.

1. The Superintending Engineer
Chennai Electricity Distribution Circle/Central
TANGEDCO, Chennai - 34.

2. The Executive Engineer, (O&M)
TANGEDCO
T.Nagar, Chennai -34.

.. 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 the entire records relating to the impugned order passed by the 2nd respondent in his Memo No.EE/TNR/ADM/A1/F. Suspension/D/No/3211, dated 04.02.2011 and consequential rejection order passed by the 1st respondent in his Memo No. 003959/72/Ni.Pil/U3/Ko.Baskaran/2011-3, dated 15.05.2014 and quash the same and consequently direct the respondents to reinstate the petitioner into service with all attendant benefits.

For Petitioners : M/s.C.Prakasam
For Respondents : Mr.P.R.Dhilipkumar
Standing Counsel

O R D E R

The writ petitioner placed under suspension in proceedings dated 04.02.2011 is under challenge in the present writ petition.

2. The writ petitioner was placed under suspension, on account of his arrest by the Director of Vigilance and Anti-corruption, Adayar, in respect of an allegation of demand of illegal gratification of Rs.2,000/-, apart from the fee amount of Rs.1600/- at the office of the Assistant Engineer, TNEB. Undoubtedly, the allegations against the writ petitioner are

certainly serious warranting an enquiry. The disciplinary proceedings must be concluded in all aspects and final order has to be passed. The writ petitioner is found to face the criminal case also. However, keeping an employee under suspension for an unspecified period is not certainly desirable. In view of the fact that giving subsistence allowance without extracting any work for long years will cause financial loss to the State exchequer. The writ petitioner was in continuous suspension for more than 8 years. This being the factum, this Court is not inclined to consider the representation of the writ petitioner.

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 1st respondent in his Memo No. 003959/72/Ni.Pil/U3/Ko.Baskaran/2011-3, dated 15.05.2014 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.

-s/d-

Assistant Registrar (CS-I)

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Sub-Assistant Registrar

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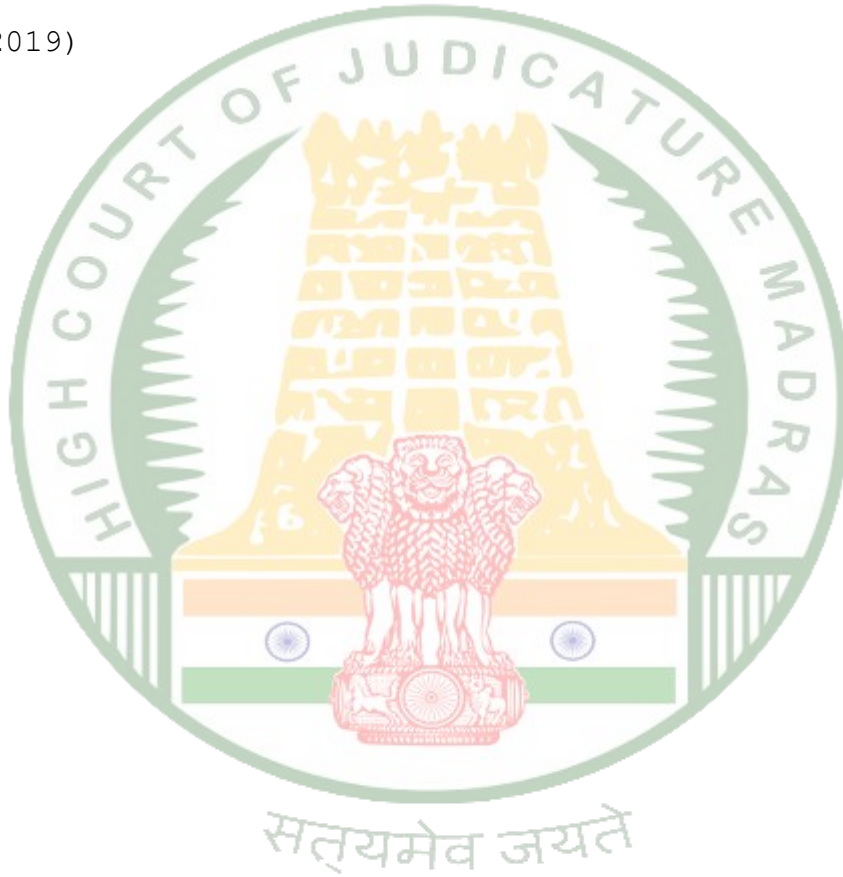
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+1 CC to Mr.C.Prakasam, Advocate sr 17784.
+1 CC to Mr.P.R.Dhilipkumar, Advocate sr 17316.

W.P.No.15039 of 2018

SP (14/03/2019)



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