

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 09.01.2019

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

W.P. NO. 16251 OF 2018

AND

W.M.P. NO. 19353 OF 2018

C.Raghu

.. Petitioner

- Vs -

1. The Chairman
Tamil Nadu Generation &
Distribution Corporation Ltd.
(TANGEDCO), NPKKR Maaligai,
144, Anna Salai, Chennai 600 002.
2. The Chief Engineer (Personnel)
Tamil Nadu Generation &
Distribution Corporation Ltd.
(TANGEDCO)
NPKKR Maaligai, 144, Anna Salai
Chennai 600 002.
3. The Chief Engineer - Distribution
Tamil Nadu Generation &
Distribution Corporation Ltd.
(TANGEDCO), Vellore Region
Vellore 632 006.
4. The Superintending Engineer
Dharmapuri Electricity Distribution Circle
(TANGEDCO), Dharmapuri.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus to call for the records of the fourth respondent in Memo No.748/SED/Adm. 5/A.3/F.DVAC/2008 dated 7.12.2008, quash the same and consequently permit the petitioner to rejoin duty/service as Junior Engineer with all attendant/consequential benefits.

For Petitioner : Mr. S.Saishankar

For Respondents : Mr. Fakhir Mohideen

ORDER

The present writ petition has been filed by the petitioner for quashment of the impugned order and to reinstate the petitioner in service with all attendant benefits.

2. It is the case of the petitioner that pursuant to the case registered by the Vigilance and Anti Corruption Department relating to alleged offence of acceptance of bribe by the petitioner on 5.12.2008, the 4th respondent passed the impugned suspension order, dated 7.12.2008, without serving any charge memo nor through a reasoned order. The suspension has been in force since 7.12.08. The petitioner addressed a letter to the 3rd respondent for revocation of suspension and for reinstatement vide letter dated 16.10.2010, but till date no order has been passed on the said letter, nor the case has reached its logical conclusion. Therefore, left with no alternative, the present petition has been filed.

3. Mr. Fakir Mohideen, learned standing counsel takes notice for the respondents and submits that out of eight witnesses, seven witnesses have been examined and the matter will be concluded shortly.

4. Be that as it may. The Supreme Court had deprecated the act of the employers in keeping its employees under prolonged suspension. In *Ajay Kumar Choudhary - Vs - Union of India* (2015 (7) SCC 291), the Supreme Court has laid down that suspension of an employee is injurious to his interests and must not be continued for an unreasonable long period; the currency of suspension order should not extend beyond three months if within this period the memorandum of charges/charge sheet is not served on the delinquent officer/employee; if the memorandum of charges/charge sheet is served, a reasoned order must be passed for extension of suspension.

5. In the case on hand, a perusal of the records reveal that the order of suspension has been passed way back in the year 2008 and a decade has passed since the said order of suspension. Therefore, the criminal case has not also reached its conclusion. Such being the case, keeping the employee under suspension still, as laid down by the Supreme Court, would be injurious to the employee. Therefore, the suspension order has to be set aside.

6. Accordingly, for the reasons aforesaid, this writ petition is disposed of by revoking the order of suspension and with a further direction to the respondents to post the petitioner in a non-sensitive post by imposing reasonable conditions. The respondents shall further take all steps to complete the criminal case at the earliest point of time. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

GLN

To

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4. The Superintending Engineer
Dharmapuri Electricity Distribution Circle
(TANGEDCO), Dharmapuri.

+1cc to Mr.M.Fakhir Mohideen, Advocate, S.R.No.2681
+1cc to Mr.S.Saishankar, Advocate, S.R.No.3317

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MG(CO)
GSP(04/02/2019)