

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2019

CORAM:

THE HONOURABLE Dr.JUSTICE S.VIMALA

W.P.No.16279 of 2018
and
W.M.P.No.19383 of 2018

M.Ramamoorthy

... Petitioner

versus

1. The Chairman,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
(TANGEDCO),
NPKRR Maaligai,
144, Anna Salai,
Chennai - 600 002.
2. The Chief Engineer - Personnel
Tamil Nadu Generation and
Distribution Corporation Ltd.,
(TANGEDCO),
NPKRR Maaligai,
144, Anna Salai,
Chennai - 600 002.
3. The Chief Engineer - Distribution,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
(TANGEDCO),
Vellore Region,
Vellore - 632 006.
4. The Superintending Engineer,
Krishnagiri Electricity Distribution Circle,
(TANGEDCO),
Krishnagiri.
5. The Executive Engineer,
Operation and Maintenance,
Krishnagiri Electricity Distribution Board,
(TANGEDCO)
Krishnagiri.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of writ of certiorarified mandamus, to call for the records of the 5th respondent in Memo No.EE/O&M/PPY/ADM S/F.D.P./029/09, dated 23.04.2009 and to quash the same and consequently permit the petitioner to rejoin the duty/service as Technical Assistant with all attendant/consequential benefits.

For Petitioner : Mr.S.Sai Shankar

For Respondents : Mr.M.Fakkir Mohideen,
Standing Counsel

ORDER

This writ petition has been filed seeking to quash the order dated 23.04.2009 passed by the 5th respondent and consequently, permit the petitioner to rejoin the duty as Technical Assistant with all attendant/consequential benefits..

2. The petitioner was appointed as Helper in the respondent Department in the year 1987 and he served as Technical Assistant in the respondent Department for nearly 22 years.

2.1. It is alleged by the petitioner that a false corruption case was registered against him on 21.04.2009 and subsequently, he was placed under suspension by impugned order dated 23.04.2009. The said corruption case is now pending on the file of the Chief Judicial Magistrate, Krishnagiri.

2.2. It is the claim of the petitioner that suspension is not being extended by the respondent from time to time, giving reasons for extension of suspension and it is being extended without passing a reasoned order for the same.

2.3. The petitioner has submitted a representation on 02.02.2010 to the first respondent requesting to reinstate him into service by revoking the order of suspension. As the said request has not been considered, this writ petition has been filed.

3. A counter has been filed on behalf of the respondents. In the counter, it is stated that the petitioner has to prove his innocence before the Criminal Court where he is being tried.

3.1. The second contention raised is that the suspension order has been passed by the competent authority and there is no violation in respect of the suspension order passed. It is also stated that the effect of detention of such corrupted persons pending trial in service would demoralize the other Government

servants. It is also stated that it is open to the Government Servant to approach the Court seeking for early disposal of trial.

3.2. It is needless to point out that speedy disposal of trial is the constitutional right of the accused and it is mandatory, as per the reported decision of Ajay Kumar Choudhary's case. It is not expected of the Government Servant, who is already ailing to approach the Court seeking for early disposal of trial, but, it is the duty of the prosecuting authority to prosecute him at an earlier point of time.

3.3. It is also stated that the Session Case is pending trial and out of 18 witnesses, 5 witnesses alone have been examined. It is not known when the trial would be over.

4. The learned counsel appearing for the respondent also relied upon a decision of the Division Bench of this Court passed in W.A.No.17 of 2017 dated 25.10.2017, where under, there was a direction to the trial Court to complete the trial within a period of three months from the date of receipt of a copy of this Judgment and the Department has been directed to post the employee in a non sensitive post after looking into the progress made.

4.1. In this case, the criminal trial is pending from 2009. The prolonged suspension and prolonged trial are not going to help the case of the Department. The Department would be paying the subsistence allowance without extracting any work.

5. Under such circumstances, the respondents are directed to revoke the order of suspension dated 23.04.2009 and put the petitioner in any non-sensitive post and by imposing terms and conditions, if need be.

5.1. The Trial Court is directed to dispose of the trial as quickly as possible, keeping in mind, speedy trial is the fundamental right of the accused.

6. With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
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2. The Chief Engineer - Personnel
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Krishnagiri Electricity Distribution Circle,
(TANGEDCO), Krishnagiri.
5. The Executive Engineer,
Operation and Maintenance,
Krishnagiri Electricity Distribution Board,
(TANGEDCO) Krishnagiri.

+1cc to Mr.M.Fakkir Mohideen, Advocate, S.R.No.1307
+1cc to Mr.S.Sai Shankar, Advocate, S.R.No.1100

W.P.No.16279 of 2018

CS/04/02/2019

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