

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :25.02.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.16336 of 2018

and

W.M.P.Nos.19484 & 19485 of 2018

D.Bakkiaraj

.. Petitioner

..vs..

1.The District Tribal Welfare Project Officer,
Salem, Salem District.

2.The Special Tahsildar,
Tribal Welfare,
Aathur, Salem District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the first respondent in R.C.No.192/2017/PO dated 07.12.2017 and quash the same and direct the respondents to reinstate the petitioner back into service with all attendant benefits including arrears of salary and subsistence allowance.

For Petitioner : Mr.P.Manoj Kumar

For Respondents: Mrs.P.Rajalakshmi
Additional Government Pleader

सत्यमेव जयते
O R D E R

The order of suspension dated 07.12.2017 is under challenge in the present writ petition.

2. On account of certain allegations, the writ petitioner was placed under suspension on initiation of departmental disciplinary proceedings.

3. The learned counsel for the writ petitioner states that the criminal case against the writ petitioner ended with an order of acquittal on 09.02.2018. In view of the final order of acquittal passed in the criminal case, the respondents are bound to proceed with the departmental disciplinary proceedings,

conclude the same and pass orders without causing any further delay.

4. This Court is of an opinion that the disciplinary authorities are empowered to continue with the disciplinary proceedings, conclude the same and pass orders on merits and in accordance with law.

5. This being the factum, the respondents are directed to be review the case of the writ petitioner in the conclusion of the departmental disciplinary proceedings and pass appropriate orders on merits and in accordance with law as expeditiously as possible.

6. 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.

7. 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.

8. 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.

9. 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 proceedings R.C.No.192/2017/PO dated 07.12.2017 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.

10. With these directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

Pns

To

1.The District Tribal Welfare Project Officer,
Salem, Salem District.

2.The Special Tahsildar,
Tribal Welfare,
Aathur, Salem District.

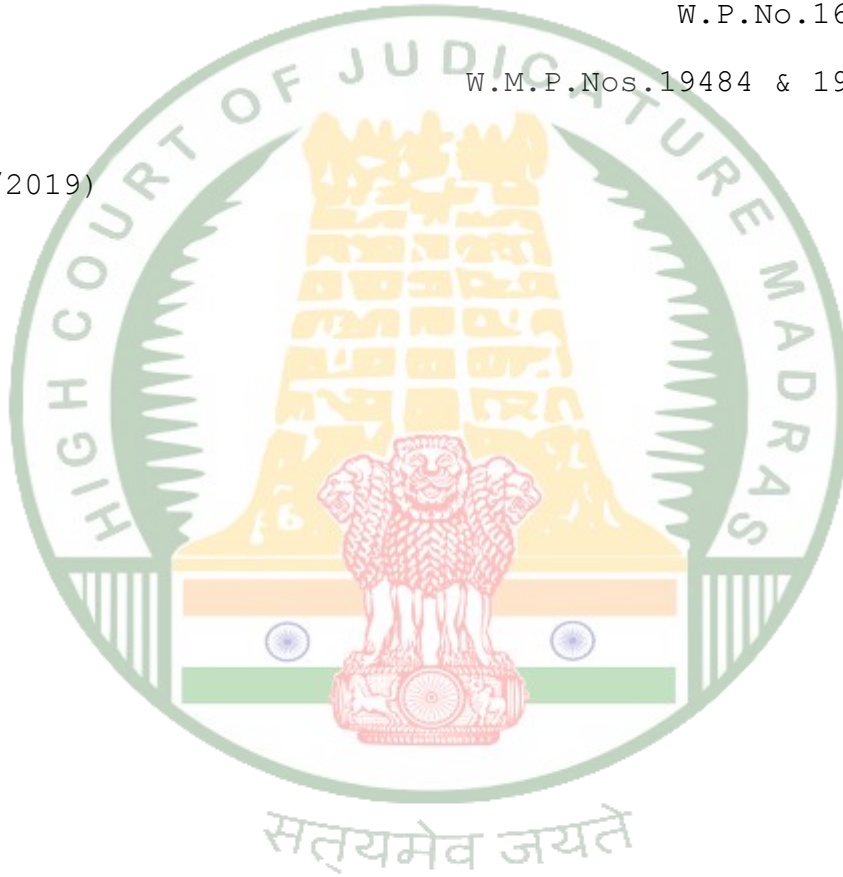
+lcc to Mr.P.Rajendran, Advocate SR.No.18349

W.P.No.16336 of 2018

and

W.M.P.Nos.19484 & 19485 of 2018

RS (CO)
GMY (26/03/2019)



WEB COPY