

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :22.03.2019

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

W.P.No.16366 of 2018
and

W.M.P. Nos. 19531 to 19533 of 2018

P.Selvaraju

...Petitioner

Vs.

1. The Chairman
Tamil Nadu Electricity Generation
and Distribution Corporation Ltd.,
Nadippisaipulavar K.R.Ramasamy Building
No.144, Anna Salai
Chennai - 600 002.
2. The Chief Engineer,
Personnel,
Tamil Nadu Electricity Generation
and Distribution Corporation Ltd.,
Nadippisaipulavar K.R.Ramasamy Building
No.144, Anna Salai
Chennai - 600 002.
3. The Chief Engineer, Distribution,
Villupuram Region,
Tamil Nadu Electricity Generation and Distribution
Corporation Limited
Villupuram.
4. The Superintending Engineer
Cuddalore Electricity Distribution Circle
Tamil Nadu Electricity Generation and Distribution
Corporation Limited,
Cuddalore - 4.
5. The Inspector of Police,
Vigilance and Anti-Corruption Wing,
Cuddalore.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records culminating in the Order of Suspension dated 19.08.2014 bearing memorandum number 178(355)/SE/CEDC/Cud/Adm.1/A.3/F.D.P/2014, passed by the fourth respondent and quash the same and direct the respondent 2 to reinstate the petitioner in service.

For Petitioner : Mr.M.Aravind Subramaniam

For Respondents : Mr.M.Fakir Mohideen for R1 to R4
Mr.A.N.Thambidurai
Special Government Pleader for R5

O R D E R

The order of suspension dated 19.08.2014, was issued by the respondent placing the writ petitioner under suspension on the ground that the criminal case in Crime No.5/2014, was registered against the writ petitioner under the Corruption of Prevention Act, 1998. The writ petitioner was arrested and remanded to judicial custody.

2. The learned counsel for the writ petitioner states that the criminal case registered is pending and the Authorities Competent have not reviewed the order of suspension so far and therefore, keeping the writ petitioner under suspension for a prolonged period is bad in law.

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 4th respondent in Memorandum. No. 178(355)/SE/CEDC/Cud/Adm.1/A.3/F.D.P/2014, dated 19.08.2014, 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.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

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Tamil Nadu Electricity Generation and Distribution
Corporation Limited, Cuddalore - 4.
5. The Inspector of Police,
Vigilance and Anti-Corruption Wing, Cuddalore.

+1cc to Mr.M.Aravind Subramaniam, Advocate, S.R.No.28190
+1cc to Mr.M.Fakir Mohideen, Advocate, S.R.No.27715

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RSV(CO)
CS/30/04/2019