

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :27.02.2019

CORAM

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

W.P.No.16412 of 2018

and

W.M.P.No.19561 of 2018

R.Srinivasan

.. Petitioner

..vs..

1.The Chairman,
Tamilnadu Generation and Distribution Corporation Ltd.,
(TANGEDCO),
NPKRR Maaligai,
144, Anna Salai,
Chennai-600 002.

2.The Chief Engineer- Personnel,
Tamilnadu Generation and Distribution Corporation Ltd.,
(TANGEDCO), NPKRR Maligai,
144, Anna salai,
Chennai-002.

3.The Chief Engineer- Distribution,
Tamilnadu Generation and Distribution Corporation Ltd.,
(TANGEDCO),
Gandhi Nagar,
Vellore-632006.

4.The Superintending Engineer,
Krishnagiri Electricity Distribution circle,
(TANGEDCO), Krishnagir-635 002.

..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 of the fourth respondent in Memo No.693/Adm.I/A.3/F.DVAC/2013, dated 04.09.2013, and quash the same and consequently permit the petitioner to rejoin duty/service as Commercial Inspector with all attendant consequential benefits.

For Petitioner : Mr.Sai Shankar

For Respondents : Mr.M.Fakkir Mohideen
Standing Counsel

O R D E R

The order of suspension dated 04.09.2013 is under challenge in the present writ petition.

2. The writ petitioner was placed under suspension on account of the fact that a criminal case was registered against him by the Directorate of Vigilance and Anti Corruption, Krishnagiri on 02.09.2013 for the offence of demanded illegal gratification of Rs.2,500/- and accepted the same. The criminal case in Cr.No.05/Ac/2013 KG U/S 7 and 13(2) r/w 13(1) (d) Prevention of Corruption Act, 1988. Admittedly, the criminal case registered against the writ petitioner is still pending and he is under continuous suspension for more than 6 years.

3. Under these circumstances, this Court is of an opinion that keeping the writ petitioner under suspension for an unspecified period is not preferable. Further, mere pendency of a criminal case is not a bar for the disciplinary authorities to proceed with the departmental disciplinary proceedings, if they are in possession of documents and materials in respect of the allegations set out in the writ petition.

4. 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.

5. 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.

6. 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.

7. 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 his Memo No.693/Adm.I/A.3/F.DVAC/2013, dated 04.09.2013 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.

8. Accordingly, the present writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

Pns

To

- 1.The Chairman,
Tamilnadu Generation and Distribution Corporation Ltd.,
(TANGEDCO),
NPKRR Maaligai,
144, Anna Salai,
Chennai-600002.
- 2.The Chief Engineer- Personnel,
Tamilnadu Generation and Distribution Corporation Ltd.,
(TANGEDCO), NPKRR Maligai,
144, Anna salai,
Chennai-632002.
- 3.The Chief Engineer- Distribution,
Tamilnadu Generation and Distribution Corporation Ltd.,
(TANGEDCO),
Gandhi Nagar, Vellore-632006.
- 4.The Superintending Engineer,
Krishnagiri Electricity Distribution circle,
(TANGEDCO), Krishnagir-635002.

+1cc to Mr.M.Fakkir Mohideen, Advocate, S.R.No.18608

+1cc to Mr.S.Sai Shankar, Advocate, S.R.No.18406

W.P.No.16412 of 2018

and

W.M.P.No.19561 of 2018

SV (CO)

RRS (04/04/2019)

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