

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :22.03.2019
CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No.17403 of 2018
and
W.M.P.Nos.20687 & 20688 of 2018

U.Ayyapillai

.. Petitioner

..vs..

- 1.The Chairman,
Tamil Nadu Electricity Board,
Nadippisai Pulavar K.R.Ramasamy Building
No.144, Anna Salai,
Chennai - 600 002.
- 2.The Chief Engineer,
Personnel,
Tamil Nadu Electricity Board,
Nadippisai Pulavar K.R.Ramasamy Building
No.144, Anna Salai,
Chennai - 600 002.
- 3.The Chief Engineer,
Distribution Trichy Region,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Trichy - 620 017.
- 4.The Superintending Engineer,
Thiruvuarur Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Thiruvuarur - 610 001.
- 5.The Inspector of Police,
Vigilance and Anti Corruption Wing,
Nagapattinam - 611 001

.. 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 culminating in the order of suspension dated 06.01.2012 bearing Memorandum Number 2146-1/SE/TEDC/TVR/Adm.I/A.1/F.Suspension/12 issued by the 4th respondent and quash the same and direct the respondent 2 to reinstate the petitioner in service.

For Petitioner : Mr.M.Aravind Subramaniam
For Respondent : Mr.P.R.Dhilip Kumar for R1 to R4
Mr.A.N.Thambidurai
Special Government Pleader for R5

O R D E R

The impugned order of suspension was issued in Proceedings dated 06.01.2012, placing the writ petitioner under suspension on account of the fact that a criminal case was registered against the writ petitioner in Crime No.01/2012, under Section 7 & 13 (1) (d) r/w 13 (2) of the Prevention of Corruption Act, 1988.

2. The writ petitioner is facing serious allegation on corruption and therefore, the trial is to be concluded in all respects and the departmental disciplinary proceedings are also must be proceeded with. However, keeping an employee under suspension for a long period is bad in law. The criminal case against the writ petitioner is still pending.

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 his Memo No.2146-1/SE/TEDC/TVR/Adm.I/A.1/F.Suspension/12, dated 06.01.2012 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)

//True Copy//

Sub Assistant Registrar

Pns

To

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Nagapattinam - 611 001.

+1cc to Mr.M.Aravind Subramaniam , Advocate SR.No. 28194

+1cc to Mr.P.R.Dhilip Kumar , Advocate SR.No. 27719

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A.SK(24/04/2019)