

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2019

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.32306 of 2019 and
W.M.P.Nos.32597 & 32598 of 2019

R.Balakrishnan

... Petitioner

Vs.

1. The Chairman,
Tamil Nadu Generation and Distribution Corporation Limited,
10th Floor, NPKRR Maligai,
144, Anna Salai,
Chennai - 600 002
2. The Chief Engineer(Personal),
Tamilnadu Generation and Distribution Corporation Limited,
8th Floor, NPKRR Maligai,
144, Anna Salai,
Chennai - 600 002
3. The Chief Engineer(Personal),
Tamilnadu Generation and Distribution Corporation Limited,
Vellore Division 632 006, Vellore
4. The Superintending Engineer,
Tamilnadu Generation and Distribution Corporation Limited,
Vellore Electricity Distribution Circle,
Vellore District - 632 006
5. The Executive Engineer,
(Operation & Maintenance),
Tamil Nadu Generation and Distribution Corporation Limited,
Sholinghur, Vellore District 631 102

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the impugned suspension order in memo No.EE/O&M/SHR/F-CONFIDENTIAL/D-194/2019-20 dated 25.09.2019 passed by the fifth respondent and quash the same and consequently to reinstate the petitioner into service.

For Petitioner : Mr.M.Rajendran

For Respondents : Mr.Fakkir Mohideen

O R D E R

By consent, the writ petition is taken up for final disposal at the admission stage itself.

2.The case of the petitioner is that the petitioner is working as a foreman in TANGEDCO at Sholinghur Branch and one, L.Sivagami, Revenue Supervisor threatened the officers, very particularly the Executive Engineer, the fifth respondent that unless and otherwise to suspend the petitioner she will commit suicide by locking the office inside the door on 25.09.2019 at about 10.30 a.m., in which there is no functioning of office, thereby she was issued memo for locking the door inside the office. However, the petitioner has been victimized by the fifth respondent for flimsy charges by way of the impugned suspension order. Challenging the same, the petitioner has filed this writ petition.

3.The learned counsel appearing for the petitioner submits that all the charges mentioned are totally false. So far as the first charge is concerned, it is alleged that he restrained the other employees from discharges their duties and prevented the consumers from paying the electricity bills and thereafter locked the Jenshet room, but on the same day i.e. 05.09.2019 the petitioner was not in that station as he had been deputed to the training centre at Vellore. Insofar as the other charges are concerned they are only flimsy charges. Therefore the petitioner is not responsible for the said charges. Hence, he prayed for allowing the writ petition.

3.Heard both sides.

4.This Court is unable to go into the merits of the allegations made by the petitioner. So long as the power of suspension is available with the respondents and it has been exercised by the competent authority, the Court cannot go behind the order of suspension.

5.The Supreme Court in its decision reported in 1990 (3) SCC 60 (Director General and Inspector General of Police, Andhra Pradesh, Hyderabad and others Vs. K.Ratnagiri) has held in paragraph 7 as follows:

"7....The Rule 13(1) empowers the authority to keep the

respondent under suspension pending investigation or enquiry into the criminal charges where such suspension is necessary in the public interest. When the first information report is issued, the investigation commences and indeed it has commenced when the respondent was kept under suspension. The order of suspension cannot, therefore, be said to be beyond the scope of Rule 13(1) merely because it has used the word 'prosecution' instead of investigation into the charges against the respondent. A wrong wording in the order does not take away the power if it is otherwise available. The Tribunal seems to have ignored this well accepted principle."

Further, it was observed in paragraph 3 as follows:

"3....The government may review the case and make further or other order but the order of suspension will continue to operate till it is rescinded by an appropriate authority."

6.Once again, the Supreme Court vide its decision reported in 1994 (2) SCC 617 (State of Haryana Vs. Hari Ram Yadav and others) held in paragraph 10 as follows:

"10....The law is well settled that in cases where the exercise of statutory power is subject to the fulfilment of a condition then the recital about the said condition having been fulfilled in the order raises a presumption about the fulfilment of the said condition, and the burden is on the person who challenges the validity of the order to show that the said condition was not fulfilled. In a case, where the order does not contain a recital about the condition being fulfilled, the burden to prove that the condition was fulfilled would be on the authority passing the order if the validity of the order is challenged on the ground that the condition is not fulfilled...."

Further, in paragraph 11 of the judgment, it was observed as follows:

"11....There is no averment in the said petition challenging the validity of the impugned order of suspension on the ground that the Governor of Haryana was not satisfied that it was either necessary or desirable to place Respondent 1 under suspension. In the absence of any such averment it must be held that the impugned order was passed after fulfilling the requirement of Rule 3(1) of the

Rules in view of the presumption as to the regularity of official acts which would be applicable and the absence of a recital in the order about the Governor being satisfied that it was either necessary or desirable to place respondent 1 under suspension is of no consequence...."

7. Therefore, this Court cannot interfere with the suspension order issued by the fifth respondent and the writ petition is liable to be dismissed. Accordingly, the writ petition is dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

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W.P.No.32306 of 2019

KK(CO)
CS/18/12/2019