

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :25.02.2019

CORAM

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

W.P.No.27355 of 2018
and
W.M.P.No.31854 of 2018

G.Yuvaraj

.. Petitioner

..vs..

The Revenue Divisional Officer,
Salem.

..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 respondent herein passed in his Roc.2873/2013/A1 dated 29.06.2017 placing the petitioner under suspension and quash the same and consequently direct the respondent herein to revoke the petitioner's order of suspension.

For Petitioner : Mr.Ravi Shanmugam

For Respondent : Mr.D.Suriyanarayanan
Additional Government Pleader

O R D E R

The order of suspension dated 29.06.2017 is under challenge in the present writ petition.

2. The writ petitioner is working as Village Administrative Officer and he was placed under suspension on the ground that a criminal case was registered against Cr.No.3/AC/2013 by the Department of Vigilance and Anti-Corruption under the provisions of the Prevention of Corruption Act, 1988.

3. The writ petitioner, undoubtedly, is facing the criminal case in relation to the allegations raised under the Prevention of Corruption Act. The order of suspension originally issued in proceedings dated 07.05.2013 in W.P.No.4411 of 2016. The suspension order dated 07.05.2013 issued on the ground that a

criminal case was registered was directed to be reviewed by the Competent Authorities. The Competent Authorities reviewed the order of suspension and revoked the suspension order and accordingly, the writ petitioner was reinstated in to service on 08.06.2017.

4. The writ petitioner was issued with a posting order on 14.06.2017 and he joined in the said post. Without any change in the circumstances, by citing the same criminal case registered against the writ petitioner in Cr.No.3/AC/2013 against the order of suspension dated 29.06.2017 is issued.

5. The learned counsel for the writ petitioner states that there is no change in the circumstances and by citing the same criminal case once again, the writ petitioner cannot be suspended for an unspecified period.

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 respondent in his Roc.2873/2013/A1 dated 29.06.2017 is quashed.

(ii) The respondent is directed to reinstate the petitioner in service.

(iii) The respondent is 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. Accordingly, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS VIII)

//True Copy//

Sub Assistant Registrar

To

The Revenue Divisional Officer,
Salem.

+1c to Mr.Ravi Shanmugam, Advocate Sr.17268

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