

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :25.02.2019

CORAM

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

W.P.No.30678 of 2018

and

W.M.P.Nos.35782 & 35783 of 2018

K.Rajagopal

.. Petitioner

..vs..

1.The Chairman,

Tamil Nadu Electricity Board,
Tamil Nadu Generation and Electricity
Distribution Corporation Ltd., (TANGEDCO)
NPKRR Maaligai, No.144, Anna Salai,
Chennai - 600 002.

2.The Superintending Engineer,

Chennai Electricity Distribution Circle / South,
Tamil Nadu generation and Electricity
Distribution Corporation Ltd., (TANGEDCO),
Tamil Nadu Electricity Board,
K.K.Nagar,
Chennai - 600 078.

...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 entire records relating to the impugned order passed by the 2nd respondent in his Memo No.6314/149-1/Adm.I/A4/F.DVAC-SUS/2009, dated 26.03.2009 and consequential rejection order passed by the 2nd respondent in his memo No.014367/654/Adm1/A4/F.Sus./2010, dated 27.08.2010 and quash the same and consequently direct the respondents to reinstate the petitioner into service with backwages, all attendant benefits and other monetary benefits together with continuity of service to the petitioner.

For Petitioner : Mr.C.Prakasam
For Respondents : Mrs.P.R.Dhilip Kumar

O R D E R

The order of suspension dated 26.03.2009, placing the writ petitioner under the suspension on the ground that the criminal case registered against him is under challenge in the present writ petition.

2.The writ petitioner was working as Line Inspector and on account of certain serious allegations, the criminal case was registered against him and the same is pending. The facts remain that the departmental disciplinary proceedings initiated against the writ petitioner as well as the criminal case are pending for trial.

3.Under these circumstances, keeping an employee under suspension for an unspecified period is certainly not preferable. The writ petitioner was placed under suspension on 26.03.2009 and continuing in suspension for more than 9 years. This being the factum, this Court is of the considered opinion that the petitioner shall be reinstated into service and post him in any one of non-sensitive post till the conclusion of the criminal case as well as departmental disciplinary proceedings.

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 2nd respondent in his Memo No.6314/149-1/Adm.I/A4/F.DVAC-SUS/2009, dated 26.03.2009 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 writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar (CS-I)

True Copy

Sub-Assistant Registrar

To

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Tamil Nadu Electricity Board,
Tamil Nadu Generation and Electricity
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NPKRR Maaligai, No.144, Anna Salai,
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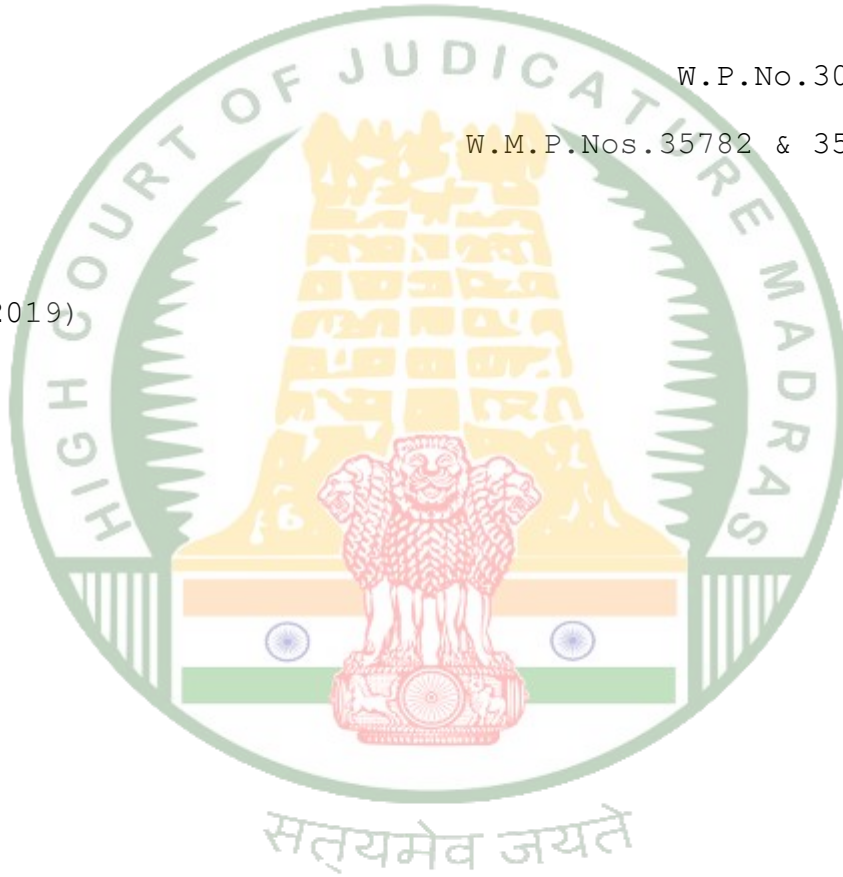
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Chennai - 600 078.

+1 CC to Mr.C.Prakasam, Advocate sr 17780.

+1 CC to Mr.P.R. Dhillip Kumar, Advocate sr 17318.

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AD(CO)
SP(13/03/2019)



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