

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08-04-2019

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.33379 of 2018

And

W.M.P.No.38753 of 2018

P.Govindarajan

.. Petitioner

Vs.

1.The Chairman cum Managing Director,
TANGEDCO (Tamil Nadu Generation and
Distribution Corporation Ltd),
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai-2.

2.The Director,
TANGEDCO (Tamil Nadu Generation and
Distribution Corporation Ltd),
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai-2.

3.The Superintending Engineer,
Salem Electricity Distribution Circle,
Tamil Nadu Generation and Distribution
Corporation Ltd (TNEB),
Udayapatty,
Salem.

सत्यमेव जयते. Respondents

Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the third respondent in Memo No.114197/951/G7/G7/2015-1, dated 3.3.2015 and quash the same and consequently, permit the petitioner to rejoin duty/service as Commercial Inspector with all attendant/consequential benefits.

For Petitioner : Mr.M.L.Ramesh

For Respondents : Mr.P.R.Dhilip Kumar,
Standing Counsel for TNEB.

O R D E R

The writ petitioner, who worked as Commercial Inspector in the Office of the Assistant Engineer, was placed under suspension in proceedings dated 14.10.2010, on the

ground that the writ petitioner had been involved in corruption of demand and acceptance of illegal gratification of Rs.1,000/- from one Mr.M.Venkatachalam and he was trapped and arrested by the Inspector of Police, Vigilance and Anti-Corruption, Salem on 12.10.2010.

2. The criminal case against the writ petitioner was registered in Crime No.8/AC/2010 dated 13.10.2010 under Sections 7, 13(2) read with Section 13(1)(d) of Prevention of Corruption Act, 1988.

3. Undoubtedly, the writ petitioner was placed under suspension on account of certain allegations of demand and acceptance of bribe. Thus, the Courts cannot show any leniency in respect of the allegations of corruption.

4. The writ petitioner subsequently, approached the authority to revoke the order of suspension and the representation was also rejected in proceedings dated 3.3.2015. Challenging the said order, the present writ petition is filed.

5. Earlier, the writ petitioner filed a writ petition in WP No.29102 of 2014 and this Court directed the authorities to consider the representation submitted by the writ petitioner and to revoke the order of suspension. Even thereafter, the authorities have rejected the representation of the writ petitioner.

6. This Court is of the considered opinion that keeping an employee under continuous suspension for an unspecified period is certainly not desirable. On initiation of departmental disciplinary proceedings, the authorities competent must ensure that the early disposal of the departmental disciplinary proceedings in the interest of public administration as well as in the interest of employees also. Thus, the prolonged suspension is bade in law.

7. In the present case on hand, the writ petitioner is under continuous suspension for about 8-1/2 years. Thus, no purpose would be served in keeping the writ petitioner under suspension for a further period.

8. Prolonged suspension is bad in law. Keeping an employee under suspension for an unspecified period is certainly undesirable. On initiation of departmental disciplinary proceedings, the authorities competent must ensure that the proceedings are concluded within a reasonable period of time and without causing any undue delay. Thus, the competent authority must be vigilant in respect of concluding the departmental disciplinary proceedings at the earliest possible. Undoubtedly, long pendency of the departmental disciplinary proceedings would cause prejudice to the interest of the employees and they are being deprived of their service

benefits including promotion and settlement of terminal and pensionary benefits.

9. 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.

10. 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.

11. 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.

12. Under these circumstances, this Court is of an opinion that the present writ petition is to be considered. Accordingly, the following orders are passed:-

(1) The impugned order of suspension issued by the third respondent in proceedings in Memo No.114197/ 951/ G7/G72/2015-1, dated 3.3.2015, is quashed.

(2) The respondents are directed to reinstate the writ petitioner in service.

(3) 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.

13. With the above directions, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

Svn
To

- 1.The Chairman cum Managing Director,
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Distribution Corporation Ltd),
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Salem.

+1cc to Mr.M.L.Ramesh , Advocate SR.No. 34316

WP No.33379 of 2018

A.SK(27/04/2019)

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