

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02-04-2019

CORAM

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

W.P.No.33806 of 2018
and
W.M.P.Nos.39262 and 39263 of 2018

P.Saravanan

..Petitioner

-Vs-

The Superintending Engineer,
TANGEDCO, TNEB,
Chengalpattu Electricity Distribution Circle,
Chengalpattu-603 001,
Kancheepuram District.

..Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the respondent in his Memo.No.50/Adm.2/A.1/F.Suspension/2009, dated 26.5.2009 and quash the same and consequently, direct the respondent to reinstate the petitioner into service along with back wages, all attendant benefits and other monetary benefits to the petitioner.

For Petitioner : Mr.C.Prakasam

For Respondent : Mr.P.R.Dhilip Kumar,
Standing Counsel.

O R D E R

The order of suspension issued by the respondent dated 26.5.2009, placing the writ petitioner under suspension on the ground that the Inspector of Police, Vigilance and Anti-Corruption, Kancheepuram reported that the writ petitioner had demanded and accepted Rs.2,000/- for preparing estimate for

three phase E.B. connection for the house in Melaimaiyur Village at Survey No.155/BA/8 of the complainant Thiru C.Natarajan, S/o.Chilamban, Pillaiyar Koil Street, Melaimaiyur Village, Chengalpattu Taluk and the writ petitioner was arrested on 26.5.2009 and a criminal case was registered.

2. Undoubtedly, the allegation against the writ petitioner is serious in nature. The writ petitioner was placed under suspension on registration of a criminal case under the Prevention of Corruption Act, 1988.

3. However, the fact remains that the writ petitioner was placed under suspension in proceedings dated 26.5.2009 and the suspension is continuing till today for the past more than 9 years.

4. The criminal case registered against the writ petitioner under the Prevention of Corruption Act, 1988 is pending. The authorities competent must pursue the criminal case as well as the departmental disciplinary proceedings as expeditiously as possible. However, keeping an employee under suspension for an unspecified period is certainly not desirable.

5. 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.

6. 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.

7. 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.

8. 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.

9. Accordingly, the following orders are passed:-

(i) The impugned order of suspension passed by the respondent in Memo No. 50/Adm.2/A.1/F.Suspension/2009, dated 26.5.2009 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. With the above directions, the writ petition stands allowed. However, there shall be no order as to costs.

Consequently, connected miscellaneous petitions are closed.

Svn

Sd/-
Assistant Registrar (C.O)

//True Copy//

Sub Assistant Registrar

To

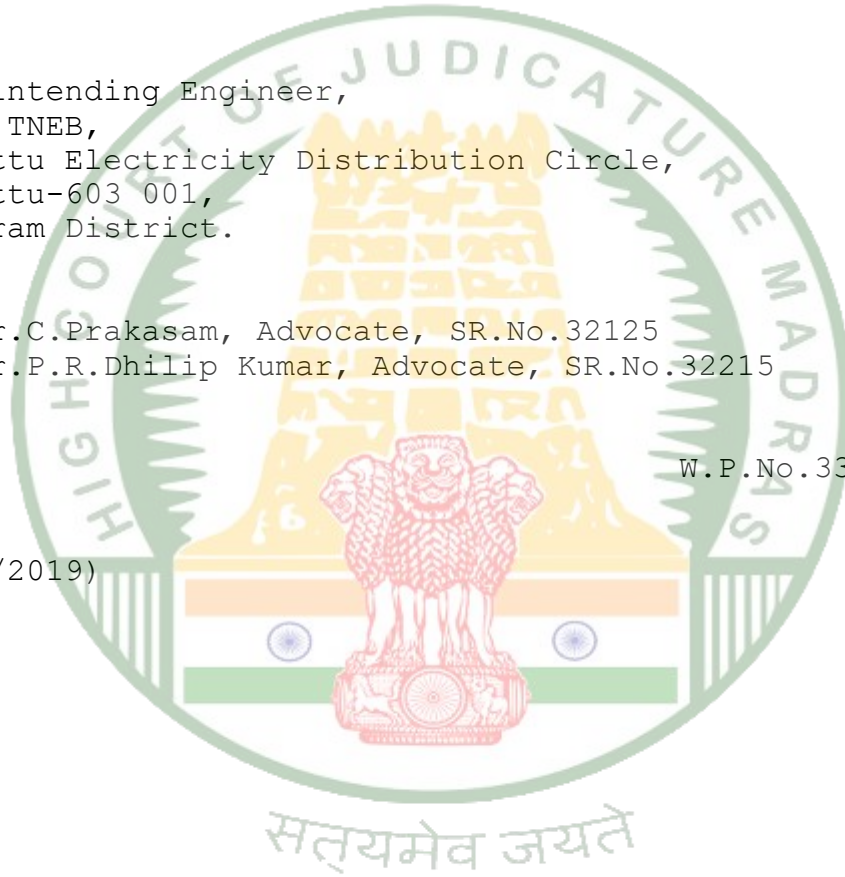
The Superintending Engineer,
TANGEDCO, TNEB,
Chengalpattu Electricity Distribution Circle,
Chengalpattu-603 001,
Kancheepuram District.

+1cc to Mr.C.Prakasam, Advocate, SR.No.32125

+1cc to Mr.P.R.Dhilip Kumar, Advocate, SR.No.32215

W.P.No.33806 of 2018

Kak (23/04/2019)



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