



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

WEB COPY

W.P. (MD) No.17007 of 2012

and

M.P. (MD) Nos.1 & 2 of 2012

S.Ravi

... Petitioner

vs.

1.The District Collector
Office of the Collectorate
Pudukkottai District

2.The Revenue Divisional Officer
Office of the Divisional Office
Pudukkottai District

3.The Tahsildar
Alankudi Taluk Office
Pudukkottai District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records relating to the proceedings in Na.Ka.A3/181/2012 dated 10.09.2012 of the 2nd respondent and confirming the order in proceedings No.Rc.A3/181/2012 dated 06.01.2012 of the 2nd Respondent and quash the same and consequently directing the 2nd respondent to reinstate the petitioner with all the monetary benefits.

For Petitioner : Mr.N.Balakrishnan

For Respondents : Mr.M.Jeyakumar

Additional Government Pleader

O R D E R

The order of suspension, dated 06.01.2012, and the consequential rejection order, dated 10.09.2012, passed by the second respondent, refusing to revoke the order of suspension, are under challenge in the present writ petition.

2. The writ petitioner was working as Village Administrative Officer. On account of allegations of demand and acceptance of bribe, a criminal case was registered against the writ petitioner by the Department of Vigilance and Anti-Corruption in Crime No.1 of 2012, under Sections 7, 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988. The writ petitioner was arrested and subsequently released on bail.



3. The learned counsel appearing for the writ petitioner states that the criminal case registered against the writ petitioner is still pending and the departmental disciplinary proceedings are also kept in abeyance on account of the pendency of the criminal case registered under the provisions of the Prevention of Corruption Act, 1988.

4. This Court is of the considered opinion that the allegations levelled against the writ petitioner are undoubtedly serious and heinous in nature. Corruption is an anti-development element. Corruption is spreading like cancer in our great Nation. Courts cannot show any leniency or misplaced sympathy in corruption cases. Undoubtedly, the corruption cases are to be tried and the same must be disposed of as expeditiously as possible. However, on account of lengthy procedures, the trial takes long time for the disposal of the criminal cases. On account of the fact that the criminal cases are pending for years together, this Court has to consider such cases, where the suspension is continued for an unspecified period. The Prosecutors as well as the departmental competent authorities must be vigilant and prudent in pursuing the criminal cases as well as the departmental disciplinary proceedings. However, keeping the employee under suspension for long time would not serve any purpose. Contrarily, the same will result financial loss to the State exchequer in view of the fact that subsistence allowance has been paid without extracting any work.

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 concerned for 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 any 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 view of the above principles, the following orders passed:

- i. The writ petition is allowed.
- ii. The impugned order of suspension, dated 06.01.2012, as well as the impugned order of rejection, dated 10.09.2012, passed by the second respondent, are quashed.
- iii. The respondents are directed to reinstate the writ petitioner and post him in a far-off place in a non-sensitive post till the disposal of the criminal case as well as the departmental disciplinary proceedings.
- iv. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

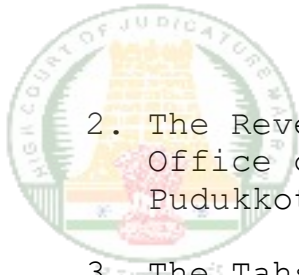
Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The District Collector,
Office of the Collectorate,
Pudukkottai District.



2. The Revenue Divisional Officer,
Office of the Divisional Office,
Pudukkottai District.

3. The Tahsildar,
Alankudi Taluk Office,
Pudukkottai District.

+1 CC to SPL GP (SR-78980[F] dated 31/07/2019)

W.P. (MD) No.17007 of 2012

and

M.P. (MD) Nos.1 & 2 of 2012

30.07.2019

KRK

MK (06.08.2019) 4P 5C