



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.15046 of 2019

and

W.M.P. (MD) No.11570 of 2019

G.Manuneethi

... Petitioner

-Vs-

1.The Secretary to Government,
Highways & Minor Ports (HL 2 Department),
Chennai-600 009.

2.The Chief Engineer,
National Highways, Guindy, Chennai.

3.Balamurugan

... 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 impugned order of the first respondent in G.O.(3D)No.5, Highways & Minor Ports (HL-2) Department, dated 30.05.2019 quash the same and consequently, direct the respondents herein to regularize the period of suspension as duty.

For Petitioner: Mr.Veerakarthiravan,
Senior Counsel,
For M/s.Veera Associates.

For R1 and R2 : Mr.M.Rajagopal, AAG assisted by
Mrs.S.Srimathy,
Special Government Pleader.

For R3 : Mr.D.Selvam
for Mr.D.Selvanayagam

ORDER

The order of the first respondent in G.O.(3D)No.5, Highways & Minor Ports (HL-2) Department, dated 30.05.2019, is sought to be quashed in the Writ Petition. Further direction is sought for to direct the respondents to regularize the period of suspension as duty.

2.According to the petitioner, he was appointed as Assistant Engineer on 11.09.1991. After promotions, now, he is working as Deputy Superintending Engineer, National Highways, Madurai. The



next avenue for promotion is Superintending Engineer and his name was included in the panel for promotion for the year 2016-2017. But in the Government Order in G.O.(D)No.140, dated 15.06.2017, the petitioner's juniors were promoted and the petitioner was not promoted. Therefore, the petitioner has sent a representation dated 19.06.2017 to the first respondent for his promotion. After receipt of said representation by the first respondent, the charge memo dated 21.06.2017 was served on the petitioner, in order to deprive his promotion. The petitioner has submitted his explanation on 04.08.2017. Again, the first respondent has served two charge memos against the petitioner and based on the said charge memos, the petitioner was suspended from service by the first respondent by issuing G.O.(3D)No.5, Highways & Minor Ports (HL-2) Department, dated 30.05.2019. Challenging the same, the petitioner has come out with the present Writ Petition.

3.The learned Senior Counsel appearing for the petitioner submitted that the charges levelled against the petitioner are baseless and without merits. The petitioner was suspended from service on *mala fide* intention of the third respondent in order to deprive of his promotion. The impugned suspension order has been passed with *mala fide* intention and entire proceedings are liable to set aside and prayed for allowing the Writ Petition.

4.The learned Special Government Pleader appearing for the respondents 1 and 2 contended that the petitioner has alleged *mala fide* only against the third respondent, not against the first respondent, who has passed the impugned suspension order. The petitioner has recommended false claim of contractors for the works mentioned in the charge memo, which runs several crores of rupees. The petitioner with intention to help the contractors, has taken a decision to grant extension of time, without proper permission from the Government. The charges levelled against the petitioner are grave in nature and based on the documents mentioned in the charge memo. The petitioner has filed W.P.(MD)Nos.19445 and 19449 of 2019, challenging the charge memo dated 14.05.2019, wherein this Court, by the order dated 22.10.2019, has dismissed both the Writ Petitions. The impugned order of suspension is passed by the first respondent, considering the gravity of the alleged misconduct. The petitioner is suspended, by the impugned order, pending disciplinary proceedings and in public interest, as per Rule 7(e) of Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955. The impugned order of suspension cannot be termed as *mala fide*, arbitrary and for ulterior purpose. The Courts can interfere with the order of suspension only when such suspension is *mala fide*. He prayed for dismissal of the Writ Petition.

5.Heard the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the respondents 1 and 2 and the learned counsel appearing for the third respondent and



perused the materials available on record carefully.

6.From the materials on record, it is seen that the petitioner was issued with charge memos. Pending disciplinary proceedings, the petitioner is kept under suspension. It is well settled that an employee can be suspended, pending enquiry into the grave charges and pending disciplinary proceedings. The suspension is an interim measure to conduct and complete disciplinary proceedings without any delay and unhindered. The suspension can be made when there is strong *prima facie* case and to keep the delinquent employee from influencing the witnesses or tampering with the documents. The Courts can interfere with the order of suspension only when the same is *mala fide* or arbitrary and when it is not possible to conclude the departmental proceedings or criminal proceedings, within a reasonable time, the authority can consider the revocation of the order of suspension. But, mere delay is not a ground for quashing the suspension order. If the charges are grave in nature, it is for the disciplinary authority to decide whether to allow the delinquent employee to continue in service or to be kept under suspension. The employer has power to suspend an employee, considering the facts of each case. In the present case, the grave charges are levelled against the petitioner, alleging his act of commission and omission, caused loss to the Government. This Court, by the order dated 22.10.2019, has dismissed W.P.(MD) Nos.19445 and 19449 of 2019 filed by the petitioner, challenging the charge memo dated 14.05.2019 and directed the respondents 1 and 2 to conclude the disciplinary proceedings, within a period of 9 months from the date of receipt of a copy of the said order. The petitioner except alleging *mala fide* on the part of the third respondent, has not substantiated the same. Similarly, the petitioner has not substantiated his claim that only with intention to deprive of his legitimate claim of promotion as Superintending Engineer, the suspension order was issued.

7.For the above reasons, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

// True Copy //

Sub Assistant Registrar(CS)

Myr



To

1.The Secretary to Government,
Highways & Minor Ports (HL 2 Department),
Chennai-600 009.

2.The Chief Engineer,
National Highways, Guindy, Chennai.

+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-101408[F] dated
26/11/2019)

+1 CC to M/s.D. SELVANAGAGAM, Advocate (SR-101816[F] dated
27/11/2019)

W.P. (MD) No.15046 of 2019
26.11.2019

mr (CO)
TR(20.12.2019) 4P 5C