



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 08.08.2019
CORAM:

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD).No.17010 of 2014
and
MP. (MD)No.1 of 2014

S.Murugan

... Petitioner

-Vs-

The Commissioner,
Tirunelveli Corporation,
Tirunelveli District,
Tirunelveli.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the impugned order of suspension passed by the respondent herein in Na.Ka.NO.C2/5624/2011, dated 16.02.2012 and the impugned Charge Memo of the respondent issued in Na.Ka.No.C2/5624/2011, dated 16.02.2012 quash the same in so far as the petitioner herein.

For Petitioner : Mr.A.Saravanan

For Respondent : Mr.Aayiram K Selvakumar

ORDER

The order of suspension, dated 16.02.2012, is under challenge in the present writ petition.

2.The writ petitioner was placed under suspension on the ground that he was arrested by the Railway Police and remanded and thereafter released on bail. The criminal case registered against the petitioner is pending till now. Thereafter, the departmental disciplinary proceedings were initiated and the writ petitioner was placed under suspension by proceedings, dated 16.02.2012.

3.The learned counsel appearing on behalf of the writ petitioner is in continuous suspension for more than six years and therefore, the order of suspension is to be revoked and the writ petitioner is ready to face the criminal trial as well as the departmental disciplinary proceedings, in the event of issuing the charge-memo. Thus, the writ petition is to be considered.

4.The learned counsel appearing on behalf of the respondents opposed the contentions by stating that the writ petitioner has involved in a criminal case and the competent authorities invoked the provision of the Tirunelveli City Municipal Corporation Service Rules and accordingly, placed the writ petitioner under suspension.

Thus, there is no infirmity in the order of suspension. Consequently, the writ petition is liable to be rejected.

5. This Court is of the considered opinion that the reasons stated that in the impugned order of suspension is in accordance with the Tirunelveli City Municipal Corporation Service Rules in force. Though there is no infirmity, in respect of the order of suspension issued, the same cannot be continued for an indefinite period. Suspension is not a punishment. It is an interim arrangement to keep an employee away from the official duties, enabling the authorities to conduct a fair enquiry, in respect of the allegations set out against the employee concerned. This being the very object of the suspension, this Court is of the opinion that keeping an employee under suspension for an unspecified period is not desirable. The Principal Bench of this Court in W.P.No.14854 of 2018, dated 25.02.2017 dealt with the similar matter and the relevant portion of the said order in paragraph Nos.2,3,4 & 5 reads as under:-

"..2. 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.

3. 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



4. 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.

5. 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. PR No.313/Adm.I/A4/F.DVAC-SUS/2012, dated 12.03.2012 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."

6. The impugned order of suspension issued by the respondent in proceeding, dated 16.02.2012, is quashed. The respondent is directed to reinstate the writ petitioner in service. The respondent is directed to post the writ petitioner in any one non-sensitive post till the conclusion of the departmental disciplinary proceedings as well as the disposal of the criminal case registered against him.



7. Accordingly, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS-III)

Sub Assistant Registrar (CS)

To

The Commissioner,
Tirunelveli Corporation,
Tirunelveli District,
Tirunelveli.

+1 CC to Mr.A.SARAVANAN, Advocate (SR-80642[F] dated 08/08/2019)
+1 CC to Mr.AAYIRAM K. SELVAKUMAR, Advocate (SR-81626[F] dated
14/08/2019)

W.P. (MD) .No.17010 of 2014
08.08.2019

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MK (29.08.2019) 4P 4C