

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 23.07.2019****CORAM****THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM****W.P[MD]No.9250 of 2014****WEB COPY**

Chinnadurai

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by its Secretary,
Department of Agriculture,
Chennai - 9.

2.The Director of Agriculture,
Chepauk,
Chennai - 5.

3.The Joint Director of Agriculture,
Tiruchirappalli.

... Respondents

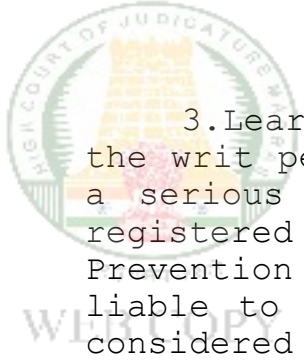
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the second respondent to reinstate the petitioner in service pending disposal of the Special C.C.No.82/2011 on the file of the Special Court (PC Act), Tiruchirappalli [C.C.No.14/08 on the file of the Special Judge cum CJM, Trichy].

For Petitioner : Mr.K.P.S.Palanivel Rajan
For Respondents : Mr.D.Muruganantham
Additional Government Pleader

O R D E R

The writ petitioner was working as Assistant Agricultural Officer and on account of the registration of a criminal case, the writ petitioner was placed under suspension in proceedings dated 10.08.2007. The criminal case was registered against the writ petitioner under the provisions of the Prevention of Corruption Act, 1998, in respect of the allegations of demand and acceptance of bribe.

2.Learned Counsel for the writ petitioner states that the criminal case is pending for trial and the disposal of the criminal case may take long time and therefore, the writ petitioner may be reinstated into service. The writ petitioner earlier filed W.P.[MD] No.1321 of 2010 to review the order of suspension dated 10.08.2007 and the said writ petition was dismissed on 01.11.2010. Thereafter, the writ petitioner had waited for four [4] years and filed the present writ petition for a direction to direct the respondents to reinstate the writ petitioner in service.



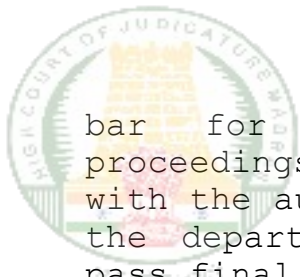
3. Learned Additional Government Pleader appearing on behalf of the writ petitioner states that the writ petitioner has involved in a serious crime of acceptance of bribe and a criminal case was registered against the writ petitioner under the provisions of the Prevention of Corruption Act, 1998. Thus, the writ petition is liable to be dismissed. The case of the writ petitioner is to be considered only after the disposal of the criminal case or on completion of the departmental disciplinary proceedings.

4. This Court is of the considered opinion that though the relief sought for in the present writ petition is to reinstate the petitioner in service, this Court is inclined to mould the prayer with reference to the order of suspension issued in proceedings dated 10.08.2007.

5. Undoubtedly, the allegations against the writ petitioner are serious in nature. There cannot be any leniency in respect of corruption allegations. Corruption is spreading like a cancer. Thus, the Courts cannot show any leniency or misplaced sympathy, in respect of corruption cases. Equally, there is no bar for the departmental disciplinary authorities to continue the departmental disciplinary proceedings even during the pendency of the criminal case if the documents, materials and evidences are available with the department to establish the allegations against the delinquent employee. However, in the present case, the fact remains that the departmental disciplinary proceedings are kept in abeyance on account of the pendency of the criminal case. In such an event, the authorities are bound to consider the cases where the employee is under prolonged suspension.

6. 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.

7. 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.

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8.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.

9.In view of the fact that the writ petitioner is under suspension for about 12 years and the subsistence allowance is being disbursed to the writ petitioner without extracting any work resulting in financial loss to the State exchequer, this Court is inclined to consider the case of the writ petitioner. Accordingly, the following orders are passed:

i) The order of suspension issued by the second respondent in proceedings No.VCS 1/128636/2007 dated 10.08.2007 is quashed.

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

iii) The respondents are directed to post the writ petitioner in any one of the non-sensitive post in any place till the conclusion of the departmental disciplinary proceedings as well as the criminal case registered against the writ petitioner.

10.Accordingly, the Writ Petition stands allowed. No costs.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar(CS)



To

1.The Secretary,
Government of Tamil Nadu,
Department of Agriculture,
Chennai - 9.

2.The Director of Agriculture,
Chepauk,
Chennai - 5.

3.The Joint Director of Agriculture,
Tiruchirappalli.

+1 CC to Mr.K.P.S.PALANIVELRAJAN, Advocate SR-76978.

+1 CC to SPL GP SR-77259.

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CS(20.08.2019) 4P 6C