



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.07.2019

CORAM

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P[MD]No.19639 of 2015

and

M.P. [MD]Nos.1 & 2 of 2015

WEB COPY

K.Palaniyandi

... Petitioner

Vs.

The State of Tamil Nadu,
Rep. by its Secretary to Government,
Revenue (Ser.2(1)) Department,
Secretariat,
Chennai - 600 009.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the respondent in pursuant to the impugned order of suspension passed by him in G.O.(2D)No.41, Revenue (Ser.2(1)) Department dated 27.01.2015 and the consequential impugned order of rejection passed by him in his proceedings vide Letter No.17786/Ser.2(1)/2015-2 dated 11.09.2015 and quash both as illegal and arbitrary and consequently direct the respondent to reinstate the petitioner in service with all monetary and service benefits within the time that may be stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu
For Respondent : Mr.S.Dhayalan
Government Advocate

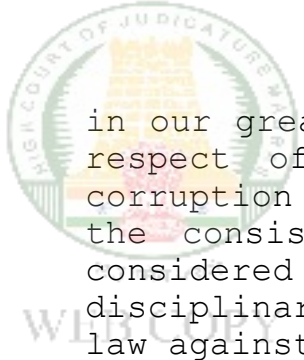
O R D E R

The order of suspension issued in G.O.(2D)No.41, Revenue (Ser.2(1)) Department dated 27.01.2015, is under challenge in the present writ petition.

2.The writ petitioner joined as a Junior Assistant and subsequently, promoted up to the level of Assistant Commissioner (Excise). In respect of the allegations of demand and acceptance of bribe, a criminal case was registered against the writ petitioner by the Vigilance and Anti-Corruption Detachment in Crime No.8 of 2015 under Section 7 of the Prevention of Corruption Act, 1988. The petitioner was arrested and subsequently released on bail. On account of the registration of the criminal case under the provisions of the Prevention of Corruption Act, the writ petitioner was placed under suspension.

<https://hcservices.ecourts.gov.in/hcservices/>

3.Undoubtedly, the allegations against the writ petitioner are serious and heinous offences. Corruption is spreading like a cancer



in our great nation. The Courts should not take any lenient view in respect of the Corruption cases. Even the charges against the corruption cannot be quashed on the ground of long delay. This being the consistent view taken by this Court, this Court is of the considered opinion that trial as well as the departmental disciplinary proceedings must be proceeded with in accordance with law against the writ petitioner.

4. 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.

5. 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.

6. 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.

7. In view of the fact that the writ petitioner is under suspension for so many 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 impugned order of suspension issued by the respondent in G.O.(2D)No.41, Revenue (Ser.2(1)) Department dated 27.01.2015 is quashed.

ii) The respondent is directed to reinstate the writ petitioner in service.

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

8. Accordingly, the Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

The Secretary to Government,
State of Tamil Nadu,
Revenue (Ser.2(1)) Department,
Secretariat,
Chennai - 600 009.

+1 CC to MR.G.THALAIMUTHARASU, Advocate (SR-79112[F] dated 01/08/2019)

+1 CC to SPL GP (SR-78944[F] dated 31/07/2019)

W.P[MD]No.19639 of 2015
30.07.2019

MR

MK (14.08.2019) 3P 4C