



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.07.2019

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P[MD]No.19758 of 2015

and

M.P.[MD]Nos.1 & 2 of 2015 & W.M.P.[MD]No.10712 of 2017

A.Stella Esther Rani

... Petitioner

Vs.

The District Collector,
Tirunelveli District,
Tirunelveli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order A6/51937/2013 dated 27.11.2013 and consequential order in Roc.No.A6/51937/2013 dated 09.05.2015 passed by the respondent and quash the same and consequently direct the respondent to reinstate the petitioner into service.

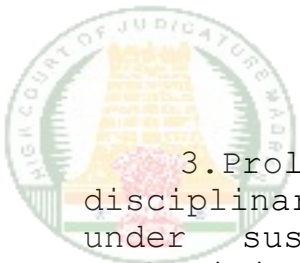
For Petitioner : Mr.S.Anwar Sameem

For Respondents : Mr.D.Muruganantham
Additional Government Pleader

O R D E R

The order of suspension dated 27.11.2013 is under challenge in the present writ petition. The petitioner was working as Tahsildar in Senkottai Taluk and on account of an allegation of demand and acceptance of bribe, the criminal case was registered against him by the Vigilance and Anticorruption Detachment in Crime No.8 of 2013 under Sections 7, 13(2) r/w. 13(1)(d) of Prevention of Corruption Act.

2.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.



3. 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.

4. 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.

5. 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.

6. 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 in proceedings No.A6/51937/2013 dated 27.11.2013 and consequential order in Roc.No.A6/51937/2013 dated 09.05.2015 are 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.

7. 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 District Collector,
Tirunelveli District,
Tirunelveli.

+1 CC to M/s.SPL GP (SR-78872[F] dated 31/07/2019)

+1 CC to M/s.T. ANTONY ARUL RAJ, Advocate (SR-10400[D] dt.02/08/2019

W.P[MD]No.19758 of 2015
30.07.2019

MR
JMN(22.08.2019) 3P : 4C