



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD)No.2480 of 2015

and

M.P(MD)Nos.1 & 2 of 2015

Karthikayani

... Petitioner

Vs.

The Deputy Inspector General of Police,
Trichy Range, Trichy.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the respondent D.O.No.233/13 C.No.B1/5964/13 dated 28.6.2013 and C.No.B1/5964/13 dated 26.11.2013 and quash the same and consequently directing the respondents herein to regularize the period of suspension as on duty and pay the arrears of salary along with other monetary and attendant benefits.

For Petitioner : Mr.Veera Kathiravan
Senior Counsel

for Mr.C.Jeganathan

For Respondent : Mr.D.Muruganandham,
Additional Government Pleader

ORDER

The order of suspension, dated 26.11.2013 is under challenge in the present writ petition.

2. The writ petitioner was appointed as Sub Inspector of Police on 16.04.1999. He was subsequently promoted to the post of Inspector of Police. On account of allegation of demand and acceptance of bribe, a criminal case was registered against the writ petitioner by the Vigilance and Anti Corruption Department, Trichy in Cr.No.7 of 2013 under Section 7 and 13(2) r/w 13(1)(d) of PC Act, 1988. The criminal case registered against the writ petitioner is pending as of now. The departmental disciplinary proceedings are also pending.

3. Under these circumstances, the learned Senior Counsel appearing on behalf of the writ petitioner made a submission that the writ petitioner is under continuous suspension for about 6 years and the application submitted for revocation of suspension was also rejected by the authority competent. The criminal case may take long time for disposal and under these circumstances keeping the writ petitioner under suspension for unspecified period is not preferable. 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 the criminal case.

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.

4.The impugned order of suspension passed by the respondent in D.O.No.233/13 C.No.B1/5964 dated 28.06.2013 and C.No.B1/5964/2013 dated 26.11.2013 are quashed. The respondents are directed to reinstate the writ petitioner in service and 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.

5. Accordingly, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar (CS)

To

<https://ncservicesdept.ty.in/tiservices/>
 Director General of Police,
 Trichy Range, Trichy.



+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-82920[F] dated 22/08/2019)

+1 CC to SPL GP (SR-83197[F] dated 22/08/2019)

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