



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.08.2019

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

W.P. (MD)No.6042 of 2015

and

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

R.Ravikumar

... Petitioner

Vs.

The Tahsildar,
Alangudi Taluk,
Pudukkottai.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the respondent in Rc.No.7537/2013, B4 dated 15.6.2013 quash the same and consequently direct the respondent herein to regularize the period of suspension of the petitioner within a reasonable time.

For Petitioner : Mr.B.Jameel Arasu

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

ORDER

The impugned order of suspension dated 15.06.2013 was issued on the ground that a criminal case was registered against the writ petitioner in Cr.No.166 of 2013 by Alangudi Police Station under Sections 294(b), 324 and 307 of IPC.

2. The learned counsel appearing on behalf of the writ petitioner states that the petitioner was employed as Village Assistant at Alangudi and was placed under suspension. The departmental disciplinary proceedings are also pending and the criminal case is also pending. However, the charge memo is yet to be issued. The learned counsel for the petitioner states that the writ petitioner is under continuous suspension for more than 6 years. Thus, the writ petition is to be considered.

3.The learned Additional Government Pleader appearing on behalf of the respondent states that the order of suspension was issued on account of the fact that the criminal case was registered against



the writ petitioner. The departmental disciplinary proceedings are also kept in abeyance on account of the fact that the criminal case is in connection with certain private affairs with the neighbours of the writ petitioner. Under these circumstances, the departmental disciplinary proceedings are also kept in abeyance.

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4. This Court is of the considered opinion that the prolonged suspension is bad in law. A employee cannot be under suspension for a unspecified period. The departmental disciplinary proceedings are also pending on account of the fact that the charge memo has not been issued. Under these circumstances, the case of the writ petitioner is to be considered on the ground that he is under continuous suspension for more than 6 years. 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.

5. The impugned order of suspension passed by the respondent in RC.No.7537 of 2013, B4, dated 15.06.2013 is 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.



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

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Sd/-

Assistant Registrar (CO)

Sub Assistant Registrar

To

The Tahsildar,
Alangudi Taluk,
Pudukkottai.

+1 CC to M/s.B. JAMEEL ARASU, Advocate (SR-82730[F] dated
21/08/2019)

+1 CC to M/s.SPL GP (SR-82873[F] dated 21/08/2019)

W.P. (MD) No. 6042 of 2015

20.08.2019

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JM/27.08.2019/4P/4C