



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.10.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.(MD) No.21942 of 2019

and

W.M.P.(MD)No.18702 of 2019

WEB COPY

V.Vijaya Raj

... Petitioner

-Vs-

The Principal Secretary to Government,
Public Works (E1), Fort St. George,
Chennai.

... Respondent

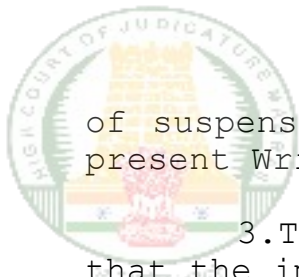
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the respondent in G.O.(D)No.98, dated 30.04.2019 and quash the same and with a consequential direction, directing the respondent to review and revoke the suspension order.

For Petitioner : Ms.Porkodi Karnan,
for M/s.Polax Legal Solutions.
For Respondent : Mr.S.Dhayalan
Government Advocate

ORDER

This Writ Petition is filed to quash the order of the respondent dated 30.04.2019 and to direct the respondent to review and revoke the suspension order.

2.According to the petitioner, he is working as Assistant Engineer. A complaint was given by one S.Uchimakali against the petitioner and others, alleging that without executing the project, the petitioner has misappropriated a sum of Rs.2.60 crores. Based on the said complaint, two cases were registered and the same are pending in Special Case Nos.2 of 2017 and 3 of 2017 on the file of the learned Chief Judicial Magistrate, Thoothukudi. Subsequently, the petitioner was suspended from service on 27.08.2018. Therefore, the petitioner has filed W.P.(MD)No.6508 of 2019, challenging the order of suspension. This Court, by the order dated 10.04.2019, made in W.P(MD).No.6508 of 2019, as an interim measure, directed the respondent to consider the case of the petitioner and pass orders in the light of **Ajay Kumar Choudary Vs. Union of India, through its Secretary and others** reported in **2015 (7) SCC 291**, within a period of two weeks. The respondent, after considering the case of the petitioner, has rejected the claim of the petitioner for revocation



of suspension, by order dated 30.04.2019, which is impugned in the present Writ Petition.

3.The learned counsel appearing for the petitioner contended that the impugned order is illegal and passed without application of mind. The order of suspension should not be continued for long period. The respondent has not initiated any departmental disciplinary proceedings and the complaint was given by a person, who is not aggrieved and the same was given due to private dispute and prayed for setting aside the order of the respondent.

4.The learned Government Advocate appearing for the respondent submitted that serious charge of corruption and misappropriation are levelled against the petitioner and others. The criminal cases were registered and charge sheet has also been filed. If the petitioner is not suspended and he is allowed to work, he may destroy the evidence and the criminal proceedings will be affected and prayed for dismissal of the Writ Petition.

5.Heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the respondent and perused the materials available on record carefully.

6.From the materials on record, it is seen that serious charge of corruption and misappropriation are levelled against the petitioner and others and the criminal cases are pending in Special Case Nos.2 and 3 of 2017, on the file of the learned Chief Judicial Magistrate, Thoothukudi. When the criminal cases are pending, it is open to the respondent either to initiate parallel proceedings for the very same set of facts or wait for the result in the criminal cases and then, decide either to initiate departmental disciplinary proceedings or not. Similarly, pending serious charges in criminal cases, it is open to the Department either to suspend the employee or transfer him to some other place, instead of paying subsistence allowance without extracting any work from the employee. In the present case, the respondent has exercised the power under Rule 17 (e) of Tamil Nadu Civil Services (Discipline and Appeal) Rules and continued the petitioner under suspension and rejected the claim of the petitioner. The reason given by the respondent is valid and in view of the serious allegations made against the petitioner, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)



To
The Principal Secretary to Government,
Public Works (E1), Fort St. George,
Chennai.

+1 CC to M/s.POLAX LEGAL SOLUTIONS, Advocate (SR-92576[F] dated
17/10/2019)

+1 CC to SPL GP (SR-93105[F] dated 18/10/2019)

W.P. (MD) No.21942 of 2019

and

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VB(26.11.2019) 3P 4C