



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD)No.1810 of 2011

and

W.M.P.(MD)No.1 of 2011

K.Madasamy

... Petitioner

-Vs-

The Superintending Engineer,
Tamil Nadu Electricity Board,
Tirunelveli E.D.C / TIN,
Tirunelveli.

...Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the respondent in Memo No.018867 / Adm.IV / A.1 / F.CONFDL / 2010 dated 19.06.2010 and quash the same and further direct the respondent to allow the petitioner to function as Junior Engineer Grade-I and pay all attendant benefits.

For Petitioner : Mr.H.Arumugam

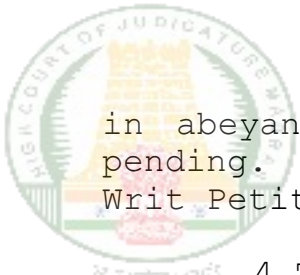
For Respondent : Mr.S.Dhayalan,
Government Advocate.

ORDER

The order of suspension dated 19.06.2010 is sought to be quashed in the present Writ Petition.

2.The writ petitioner was initially, appointed as Technical Assistant Grade-II in Tamil Nadu Electricity Board in the year 1989 and he was promoted to the post of Technical Assistant Grade-I in the year 1992. The petitioner was, thereafter, promoted to the post of Junior Engineer Grade-II in 1995 and Junior Engineer Grade-I in 1999. On account of allegation of demand and acceptance of bribe from the consumers, a criminal case was registered against the writ petitioner under the Prevention of Corruption Act. The criminal case filed against the writ petitioner by the Vigilance and Anti Corruption Wing in Crime No.05 of 2010 under Sections 7 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act is pending before the competent Criminal Court of law.

3.The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner is under continuous suspension for about 9 years and the criminal case is yet to be disposed of. Departmental disciplinary proceedings are also kept



in abeyance, on account of the fact that the criminal case is pending. Hence, the petitioner is constrained to move the present Writ Petition.

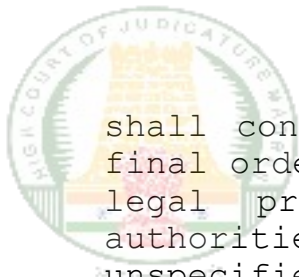
4. The writ petitioner, who is present before this Court, readily and voluntarily has given an undertaking that he will not demand or accept any bribe from any consumer or any person hereinafter throughout his services till the date of his retirement. The undertaking given will not be taken against the writ petitioner in the pending criminal case as well as in the Departmental Disciplinary Proceedings.

5. In view of the undertaking given by the writ petitioner, this Court is inclined to consider the case of the writ petitioner.

6. Apart from the undertaking given by the writ petitioner, this Court is of the considered opinion that 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.

7. 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.

8. 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.

9. 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 issued by the respondent in proceeding dated 19.06.2010 is quashed.

(ii) the respondent is directed to reinstate the writ petitioner in service, within a period of one week from the date of receipt of a copy of this order.

(iii) the respondent is directed to post the writ petitioner in any one of non-sensitive post, till the disposal of the departmental disciplinary proceedings as well as the criminal case registered against the writ petitioner.

10. The Registry is directed to keep the letter of undertaking as a record in the present Writ Petition.

11. With these directions, this Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

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To
The Superintending Engineer,
Tamil Nadu Electricity Board,
Tirunelveli E.D.C / TIN, Tirunelveli.

+1CC TO MR.H.ARUMUGAM, Advocate Sr. No.69012
+1CC TO MR.G.KASINATHA DURAI, Advocate Sr. No. 68708

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14.06.2019

GKG (CO)
TR (24.06.2019) 4P 4C