



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.06.2019

CORAM:

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

W.P. (MD) No.15656 of 2013

WEB COPY

R.K.Kanagaraj

... Petitioner

Vs

1.The Regional Chief Engineer,
Tamilnadu Generation and
Distribution Corporation Ltd.,
Tirunelveli Region,
Tirunelveli.

2.The Superintending Engineer,
Tamilnadu Generation and
Distribution Corporation Ltd.,
Virudhunagar Distribution,
Virudhunagar.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondent No.2 to review the order of suspension dated 04.01.2012, of the petitioner and consequently reinstate the petitioner back in service and pass appropriate orders within a time stipulated by this Court.

For Petitioners : Mr.T.Lajapathi Roy

For Respondents : Mr.G.Kasinathaduai

ORDER

The order of suspension dated 04.01.2012, is under challenge in the present writ petition.

2.The writ petitioner was holding the post of Junior Engineer Grade I and placed under suspension on account of the allegations of acceptance of bribe of Rs.1,000/- from the complainant K.Ramesh, S/o. Kandavel. A criminal case was registered against the writ petitioner, under the provisions of the Corruption Act.

3.The learned counsel for the petitioner states that the criminal case registered against the writ petitioner is pending and yet to be disposed of.

4.Undoubtedly, the allegations against the writ petitioner are serious in nature and a criminal case is also pending against him. Thus, the petitioner has to face the criminal case by participating



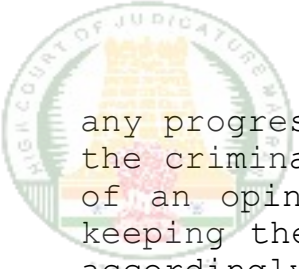
in the trial as well as the departmental disciplinary proceedings initiated.

5. 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.

6. 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.

7. 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.

8. 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:

9(i).The impugned order passed by the second respondent in Memo No.003/Adm.IV/A.1/2012-1 dated 04.01.2012, 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 him and reinstate him immediately.

10.With this observation, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/ True Copy /

Sub Assistant Registrar(CS-)

To

1.The Regional Chief Engineer,
Tamilnadu Generation and
Distribution Corporation Ltd.,
Tirunelveli Region,
Tirunelveli.

2.The Superintending Engineer,
Tamilnadu Generation and
Distribution Corporation Ltd.,
Virudhunagar Distribution,
Virudhunagar.

+1 CC to M/s.G.KASINATHA DURAI, Advocate
(SR-68709[F] dated 14/06/2019)

+1 CC to M/s.T.LAJAPATHI ROY, Advocate
(SR-68960[F] dated 14/06/2019)

W.P. (MD) No.15656 of 2013

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