

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.26942 OF 2017

ORDER:

The writ petition is filed to issue a writ of Mandamus declaring the continuation of the petitioner under suspension vide proceedings dated 17.05.2014 as illegal, arbitrary, unjust and contrary to the Rules and instructions issued by the State Government in G.O.Ms.No.526 dated 19.08.2008 and also to declare the proceedings dated 09.05.2017 issued by the respondents extending the suspension period for a further period of six months with effect from 17.05.2017 as illegal, arbitrary and unjust; and consequently to set aside the same and direct the respondents to reinstate the petitioner into service with all consequential benefits.

Heard Sri G. Vidya Sagar, learned Senior Counsel appearing for Smt. K. Udaya Sri, learned counsel for the petitioner, and Sri G. Anandam, learned Standing Counsel for the 3rd respondent.

It has been contended by the learned counsel for the petitioner that while the petitioner was working as a Financial Controller in the 3rd respondent Institute, on the allegation that he had failed to discharge his duties, the disciplinary authority has placed him under suspension vide proceedings dated 17.05.2014 pending disciplinary action against him. The grievance of the petitioner is that though he was placed under suspension during May, 2014, the respondents have not concluded the disciplinary action initiated against him nor reinstated him into service.

Learned counsel for the petitioner further contended that an employee can be placed under suspension on one of the following grounds i.e., (1) in the public interest (2) where there is a threat of an employee tinkering and tampering with the record and (3) where there is a threat of

an employee influencing the witnesses. In the instant case, the learned counsel for the petitioner submitted that the respondents have issued charge memo on 14.11.2014 and 10.01.2017 framing definite charges and that the entire material against the petitioner for the alleged irregularities has been collected and, therefore, the question of the petitioner tinkering and tampering with the record at this point of time would not arise and, for no fault of the petitioner, suspension orders are being continued even for more than 4 ½ years. Learned counsel for the petitioner, therefore, contends that appropriate orders be passed directing the respondents to reinstate the petitioner into service by revoking the suspension orders dated 17.05.2014 and also to conclude the disciplinary action initiated against the petitioner as expeditiously as possible.

Learned Standing Counsel appearing for the 3rd respondent had submitted that the petitioner was placed under suspension for grave irregularities of his failure in discharging his duties as a Financial Controller and causing huge financial loss to the 3rd respondent and, in view of serious allegations of financial irregularities leveled against the petitioner, considerable time is being taken in concluding the enquiry.

Learned Standing Counsel further submits that the case of the petitioner for revocation of suspension would be reviewed in accordance with the Rules and appropriate orders would be passed.

This Court, having considered the rival submissions made by the respective parties, is of the considered view that this writ petition can be disposed of directing the respondents to reinstate the petitioner into service by duly taking into account the fact that the petitioner is placed under suspension for more than 4 ½ years. The respondents shall also conclude the enquiry in accordance with law and pass appropriate orders thereon.

With the above observations, the writ petition is disposed of. No costs.

Consequently, miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

4th February, 2019
v v