

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2020

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.18656 of 2019
and WMP No.17985 & 17990 of 2019

R.Palanisamy

... Petitioner

.Vs.

1. Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO),
(Formerly Tamil Nadu Electricity Board),
Rep. by its the Chairman cum Managing Director,
No.144, Anna Salai, Chennai 600 002.
 2. The Chief Engineer (Personnel),
Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO),
(Formerly Tamil Nadu Electricity Board)
Erode Electricity Distribution Circle,
Erode.
 3. The Chief Engineer (Distribution),
Tamil Nadu General and Distribution Corporation Limited
(TANGEDCO),
(formerly Tamil Nadu Electricity Board,
Erode Electricity Distribution Circle,
Erode.
 4. The Junior Engineer O&M, /North/Gobi Distribution,
Tamil Nadu Generation and Distribution Corporation Limited
(TANGEDCO),
(formerly Tamil Nadu Electricity Board,
Gobi Electricity Distribution Circle,
Gobichettipalayam, Erode District.
- ... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of certiorarified Mandamus to call for the records in pursuant to the impugned order of suspension dated 08.02.2008 passed by the 3rd respondent in proceedings Ku.A.No.3390/177.U.4/2008-3 dated 08.02.2008 and the consequential relieving order issued by the 4th respondent issued in proceedings K.No.E.Mi.Po/North/Gobi/Ko-

2 /N.379A/08 dated 08.02.2008 and the subsequent impugned order issued by the 3rd respondent in proceedings Ku.A.No.016496/932/Ni.P/A1/2012-1 dated 22.09.2012 and the subsequent impugned order issued by the 2nd respondent in proceedings Memo No.023359/202 /G7(1)/20147 dated 23.04.2014 and quash these orders and consequently, direct the respondents to reinstate the petitioner in service by revoking his suspension and post him in any non-sensitive place.

For Petitioner : Mr.Prem Narayan R
For Respondents : Mr.Karthik Rajan
1 to 4 Standing Counsel

ORDER

By consent, this writ petition is taken up for final disposal.

2. This Writ Petition has been filed challenging the suspension order passed by the 3rd respondent, by proceedings dated 08.02.2008 and for a consequential direction to reinstate the petitioner.

3. The case of the petitioner is that he was working as a Foreman Grade I at Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO). An FIR came to be registered in Crime No.2/AC/2008/ER for an offence under Section 7 of the Prevention of Corruption Act, 1988. A trap was laid and the petitioner was caught red handed and he was arrested and remanded to Judicial Custody. Pursuant to the same, a suspension order came to be passed by the 2nd respondent on 08.02.2008. Since the petitioner was kept under prolonged suspension for nearly 11 years, the present writ petition has been filed challenging the suspension order and for a consequential direction to reinstate the petitioner into service.

4. The learned counsel appearing for the petitioner submitted that the petitioner has been kept under prolonged suspension for more than 11 years and the suspension has not even been reviewed from time to time and relying upon the judgement of this Court in WP No.34691 of 2019 dated 13.12.2019, the learned counsel for the petitioner submitted that the suspension order should be revoked and the petitioner can be placed in some non-sensitive post. The learned counsel also submitted that the trial is going on in the criminal case before the Chief Judicial Magistrate Court, Erode in Spl.CC No.11 of 2015.

5. The respondents have filed a counter affidavit in this case. The respondents have focussed their attention more on

the seriousness of the charges against the petitioner, who was caught red handed, while accepting bribe. The respondents have stated that if the suspension is revoked and the petitioner is taken back into service, it will have a very demoralising effect upon the other employees, who believe honesty in public service. A further stand has been taken in the counter affidavit to the effect that the suspension order passed against the petitioner was not revoked, taking into consideration the seriousness of charges.

6. Mr.Karthik Rajan, learned standing counsel appearing on behalf of the respondents submitted that the petitioner has waited for so long and the criminal trial has already commenced and therefore, some time can be fixed for the completion of the criminal trial and the result in the criminal case will have a bearing in the further course of action that is going to be taken by the respondents. The learned counsel submitted that the petitioner has been paid with the subsistence allowance till date. Therefore, the learned counsel submitted that the present writ petition is liable to be dismissed.

7. This court has carefully considered the submissions made on either side and also perused the materials available on record.

8. The issue involved in the present case with regard to prolonged suspension, has been considered in detail by this Court in the judgement that has been referred supra. This Court had considered the entire case law on the issue and this Court found that even in a case involving corruption, an employee cannot be kept under prolonged suspension. In the present case, the petitioner has been placed under suspension for the last 11 years and the petitioner is happily receiving the subsistence allowance at the rate of 75% without doing any work. This Court had lamented in the above judgement that such huge payment of subsistence allowance for a long time actually drains the public exchequer. The payment of salary /subsistence allowance without extracting work from a Government employee, who has been kept under suspension for a very long period of time, is a waste of tax money that is collected from the general public.

9. In view of the above discussion and the earlier judgement passed by this Court, this Court is inclined to give a direction to the 2nd respondent to review the suspension order passed against the petitioner. This Court will also fix a time limit for the completion of the criminal case, pending in Spl.CC No.11 of 2015, before the Chief Judicial Magistrate Court, Erode.

10. The 2nd respondent is directed to pass appropriate orders revoking the order of suspension against the petitioner

and post the petitioner in some non-sensitive posts at any district, wherever there is vacancy. This order shall be passed within a period of four weeks from the date of receipt of copy of this order. By doing so, the salary will be paid to the petitioner after extracting work from him.

11. There shall be a direction to the Chief Judicial Magistrate Court, Erode to dispose of the Spl.CC No.11 of 2015, within a period of three months from the date of receipt of copy of this order. The learned Chief Judicial Magistrate Court, Erode shall conduct the trial on a day to day basis and shall ensure the completion of the case, within the time stipulated by this Court. The Registry is directed to mark a copy of this order to the Chief Judicial Magistrate Court, Erode.

12. This writ petition is disposed of with the above directions. No costs. Consequently, the connected miscellaneous petitions are closed.

s/d-

Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

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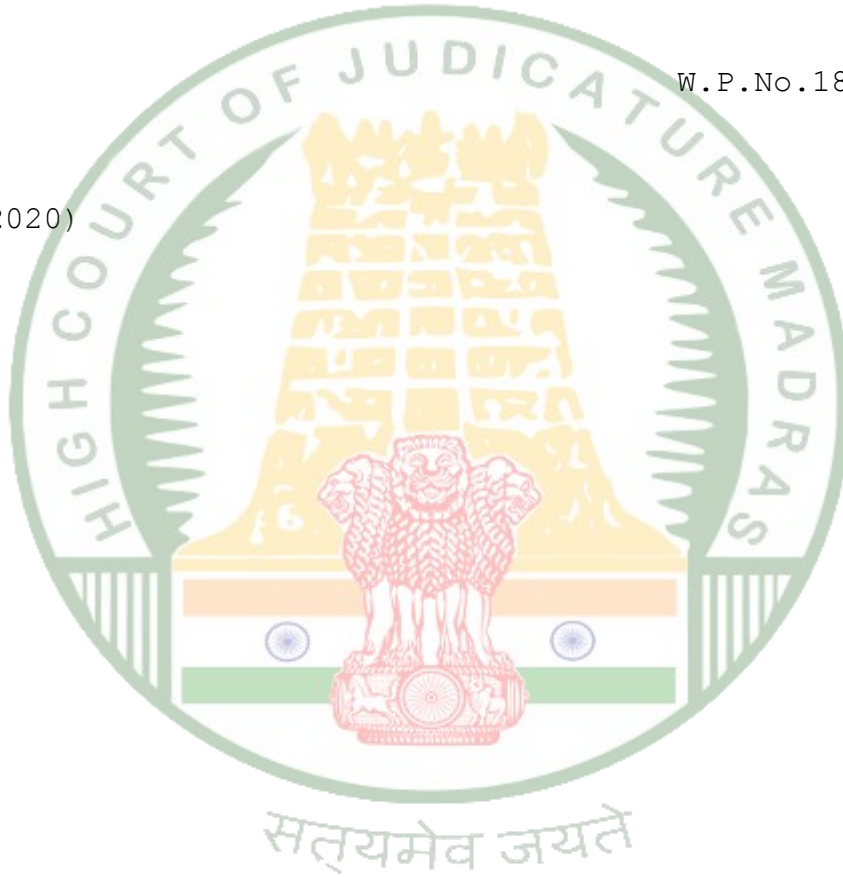
To

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(TANGEDCO),
(formerly Tamil nadu Electricity Board,
Gobi Electricity Distribution Circle,
Gobichettipalayam, Erode District.
- 5.The Chief Judicial Magistrate, Erode District.
- +1 Cc to Mr.R. Prem Narayan, Advocate sr 6805.
+1 CC to Mr. Karthik Rajan, Advocate sr 7016.

W.P.No.18656 of 2019

SP(14/02/2020)



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