



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.1857 of 2016

and

W.M.P.(MD)Nos.1608 and 1609 of 2016

N.Ragupathy

... Petitioner

versus

The Managing Director,
Tamil Nadu Minerals Limited,
Chennai - 5.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, to call for the records relating to the impugned suspension order issued by the respondent in his proceedings in No.11273/E2/2012, dated 03.09.2012 and quash the same.

For Petitioner : Mr.Mohamed Imran
for M/s.Ajmal Associates

For Respondent : Mr.M.Muthugeethaiyan,
Special Government Pleader

ORDER

This writ petition is filed for the issuance of Writ of Certiorari, to call for the records relating to the impugned suspension order issued by the respondent dated 03.09.2012 and quash the same.

2. The case of the petitioner is that he was appointed in the respondent Corporation on daily wages basis and he was made permanent on 01.04.1990 and posted as unskilled worker. Thereafter, he was posted as Compressor Operator (Staff cadre) in the year 1997. On his successful participation in the Competitive Examination conducted by the Director General of Mines Safety, Dhanbad, Jharkhand, he was recruited as Mining Mate in the year 2000 and he has been discharging his duties without any blemish to the utmost satisfaction of his superiors. While so, the respondent, vide impugned proceedings dated 03.09.2012, placed him under suspension. Following the same, the respondent has also issued a charge memo, by proceedings dated 10.12.2012, framing four charges. Challenging the suspension order, the present writ petition has been filed.



3. Learned counsel appearing for the petitioner submitted that though the petitioner was placed under suspension in the year 2012, even after the lapse of four years, the suspension was not revoked. Further, there is no justification for placing him under suspension and the prolonged suspension is illegal, as per the decision of the Hon'ble Supreme Court, in the case of **Ajay Kumar Choudhary Vs Union of India (2015 (7) SCC 291)** and **State of Tamil Nadu Vs Pramod Kumar (2018 SCC Online SC 1079)**. Hence, he prayed for allowing the writ petition.

4. The learned Special Government Pleader appearing for the respondent submitted that the charges framed against the petitioner are grave in nature and it relates to demand of illegal gratification of Rs.5,000/- per month for cutting granites and the said act of the petitioner has caused loss to the Government to the tune of Rs.71 Crore. Further, a case in Cr.No.161 of 2012 was also registered against the petitioner. Therefore, the petitioner was placed under suspension and proceedings have also been initiated against the petitioner. Hence, he prayed for dismissing the writ petition.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondent.

6. The Supreme Court in **1990 (3) SCC 60 (Director General and Inspector General of Police, Andhra Pradesh, Hyderabad and others Vs. K.Ratnagiri)** has held in paragraph 7 as follows:

"3....The government may review the case and make further or other order but the order of suspension will continue to operate till it is rescinded by an appropriate authority.

* * * * *

7....The Rule 13(1) empowers the authority to keep the respondent under suspension pending investigation or enquiry into the criminal charges where such suspension is necessary in the public interest. When the first information report is issued, the investigation commences and indeed it has commenced when the respondent was kept under suspension. The order of suspension cannot, therefore, be said to be beyond the scope of Rule 13(1) merely because it has used the word 'prosecution' instead of investigation into the charges against the respondent. A wrong wording in the order does not take away the power if it is otherwise available. The Tribunal seems to have ignored this well accepted principle."

<https://hcservices.ecourts.gov.in/hcservices> Again, the Supreme Court in **1994 (2) SCC 617 (State**



of Haryana Vs. Hari Ram Yadav and others) held in paragraph 10 as follows:

"10....The law is well settled that in cases where the exercise of statutory power is subject to the fulfilment of a condition then the recital about the said condition having been fulfilled in the order raises a presumption about the fulfilment of the said condition, and the burden is on the person who challenges the validity of the order to show that the said condition was not fulfilled. In a case, where the order does not contain a recital about the condition being fulfilled, the burden to prove that the condition was fulfilled would be on the authority passing the order if the validity of the order is challenged on the ground that the condition is not fulfilled...."

11....There is no averment in the said petition challenging the validity of the impugned order of suspension on the ground that the Governor of Haryana was not satisfied that it was either necessary or desirable to place Respondent 1 under suspension. In the absence of any such averment it must be held that the impugned order was passed after fulfilling the requirement of Rule 3(1) of the Rules in view of the presumption as to the regularity of official acts which would be applicable and the absence of a recital in the order about the Governor being satisfied that it was either necessary or desirable to place respondent 1 under suspension is of no consequence...."

8. From the ratio laid down in the aforesaid decisions, it is clear that the authority, vested with the right to pass the order of suspension, shall exercise the same in accordance with law and if at all the petitioner is aggrieved, he has to avail his remedy in a manner known to law.

9. In the case on hand, pursuant to the suspension of the petitioner, charges have been framed against the petitioner, a perusal of which shows that the charges are grave in nature. Such being the case, the decision of the Hon'ble Apex Court in *Ajay Kumar's case* and *Pramod Kumar's case* (*supra*) would not stand attracted to the case of the petitioner for the simple reason that pursuant to the suspension, charges have been framed and enquiry has been initiated. Only if the delinquent is kept on continued suspension without there being any further action, the above decisions can be taken aid of. In the case on hand, the petitioner



has also been set in motion by registration of a crime. In such case, the decision in *Ratnagiri's case (supra)* would stand attracted. Therefore, without completion of the criminal case, quashing of the order of suspension would not be justified.

10. For the reasons aforesaid, this Court is of the considered view that the writ petition deserves to be dismissed and, accordingly, the same is dismissed. However, it is open to the petitioner to seek a review of the order of suspension by making a fresh representation before the competent authorities and if any such representation is made, it is needless to state that the authorities will consider the said representation and pass orders on the same in accordance with law as expeditiously as possible. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

OGY

To

The Managing Director,
Tamil Nadu Minerals Limited,
Chennai - 5.

+1 CC to M/s.AJMAL ASSOCIATES (SR-4556[F] dated 11/02/2021)

+1 CC to THE SPECIAL GOVERNMENT PLEADER(SR-4898[F] dated 15/02/2021)

Order made in
W.P. (MD)No.1857 of 2016 and
W.M.P. (MD)Nos.1608 and 1609 of 2016
10.02.2021

SE (CO)

SRS (16/03/2021) 4P : 4C