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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MRS.JUSTICE N.MALA

W.A.No. 499 of 2022
and
C.M.P.Nos.3599, 3600 & 3601 of 2022

Kasper

... Appellant/Petitioner

-vs-

1. The Superintending Engineer (O & M),
Nagapattinam Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation Ltd,
Sattaiyappar East Street,
Nagapattinam:611 001.
2. The Executive Engineer (O & M),
Sirkali Division,
Nagapattinam Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation Ltd,
Tenpathi, Sirkali: 609 110.
3. M/s.Indus Towers Ltd,
ESPEE, I.T.PART,
5 (N.P.), 5th Floor,
Jawaharlal Nehru Road,
Ekkattuthangal, Chennai:600 032.
4. Mr.Aneesh

.... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the Impugned order passed in W.P.No.24652 of 2021 Dated:18.11.2021.

Prayer in W.P.No.24652 of 2021:Writ Petition filed under Article 226 of the Constitution of India praying for issuance of writ of certiorari Mandamus, calling for the records of the second respondent in connection with Ku. Aa. No. 839 / Che. Po / E Ru Pa / Ser / Vu Ni A / Ne Me / U. 1 / Koo. Oo. Na. / 2021 dated 22.10.2021 and quash the same and direct the respondents to conduct proper enquiry as per the guidelines issued by the



management and extend the opportunity to the petitioner to defend his innocence award cost.

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For Appellant : Mr.Chandrasekar P

For Respondents : Mr.P.Subramanian (R1 & R2)
for TNEB

J U D G M E N T

S.VAIDYANATHAN., J
and
N.MALA., J

The Present Writ Appeal has been preferred against the order of the learned Single Judge dated 18.11.2021, in dismissing the Writ Petition on the ground that it is premature.

2. The case of the Appellant/Writ Petitioner is that he was working as a Inspector of Assessment and was issued with an order dated 22.10.2021, directing the Appellant to pay a sum of Rs.2,44,420/-, towards alleged wrong collection made against the Demand Draft issued by the Third Respondent. The grievance of the Writ Petitioner is that without issuing any formal charge sheet or conducting any departmental enquiry, straightaway the aforesaid order was passed directing him to pay a huge amount thereby concluding the guilt of the Writ Petitioner. Hence, he made a representation to the 1st and the 2nd Respondents on 30.10.2021, to provide him a reasonable opportunity to prove his innocence. Since no action was taken on the said representation, the Appellant/Writ Petitioner has filed the Writ Petition in W.P.No.24652 of 2021, seeking to quash the order dated 22.10.2021 and for a consequential direction to the Respondents to conduct proper enquiry as per the guidelines issued by the management and extend the opportunity to the Petitioner to defend his innocence.

3. The learned Single Judge vide order dated 18.11.2021 dismissed the Writ Petition on the ground that the Writ Petition could not be entertained at this stage as being premature. Feeling aggrieved, the present Writ Appeal has been filed.

4. When the matter was taken up for hearing on 14.03.2022, the learned Standing Counsel appearing for the Electricity Board across the bar submitted that the subsistence allowance admissible, will be paid to the Appellant.



5. Today, when this matter is taken up, it is represented by Mr.P.Subramanian, learned counsel appearing for the Tamil Nadu Electricity Board that the Writ Petitioner is solely responsible for the incident and that the amount involved is in crores. He further submitted that Charge Memo has now been issued to the Appellant and subsistence allowance has also been paid to him.

6. The learned counsel appearing for the Appellant/Writ Petitioner submitted that the similarly placed persons have not been suspended and the Writ Petitioner alone has been suspended for no fault on his part. He further submitted that the Petitioner is innocent and not in any way connected with the offence and he is ready and willing to co-operate for the enquiry and prays for revocation of the suspension order.

7. Heard both sides. Perused the records.

8. In the light of the Full Bench Judgment of this Court in the case of P.Kannan Vs. The Commissioner for Municipal Administration and Others (W.P.Nos.2165 of 2015 and 21628 of 2018 dated 15.03.2022) it is for the employer to decide whether to suspend the employee or not and to revoke the suspension. We are of the view that it is mandatory for the employer to proceed with the enquiry as non-conduction of Disciplinary Proceedings would result in a favourable order to the delinquent on technical ground. For example, a witness may die, a witness cannot remember the events or would not like to come to depose etc.,.

9. However, this Court taking note of the submissions of both sides, without interfering with the order of the learned Single Judge, directs the Respondents to proceed with the enquiry and the Appellant/Writ Petitioner shall co-operate for the enquiry without prolonging the same and the enquiry shall be conducted on a day-to-day basis without adjourning the matter beyond five working days at any point of time and bring the issue to a logical end, preferably within a period of four months from the date of receipt of a copy of this order. In case any of the documents are with the police officials, certified xerox copies of the same can be obtained and produced in the enquiry.



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10. This Writ Appeal is disposed of accordingly. No costs. Consequently, connected M.P.'s are closed.

Sd/-
Assistant Registrar

True Copy//

Sub Assistant Registrar

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To

1. The Superintending Engineer (O & M),
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+1cc to Mr.P.Subramanian, Advocate, S.R.No.24427

W.A.No.499 of 2022

SKM[co]
NSK 05/05/2022