



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.24394 of 2021
and WMP.No.25701 of 2021

Su.Gangaatharan

...Petitioner

vs.

1.The Additional Chief Secretary
Government of Tamil Nadu,
Public Works (E1) Department,
Fort St.George, Chennai-9.

2.The Additional Chief Secretary,
Government of Tamilnadu,
Water Resources Department,
Fort St.George, Chennai-9.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records of the first respondent in G.O.(D)No.182 dated 26.10.2021 and quash the same.

For Petitioner : Mr.V.Vijay Shankar

For Respondents : Mr.A.M.Ayyadurai,

Government Advocate for R1 and R2

ORDER

By consent, this Writ Petition is taken up for final disposal.

2. It is the case of the petitioner that in the year 2015, the Vigilance and Anti-Corruption (V&AC) Tuticorin has registered an FIR in Crime No.6/2015 against the petitioner, his superiors and subordinates on the allegation of carrying out earth work, concrete and shutter works in the Tamirabarani basin Sub Division in an inappropriate manner and later, a charge memo dated 25.04.2018 was issued under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and on the same day, an order of suspension was passed. Challenging the same, the petitioner had filed W.P.No.13095 of 2018 wherein this Court directed the respondents to consider the representation of the petitioner and to pass appropriate orders. However, vide order



dated 14.06.2018, the respondents, rejected the petitioner's representation dated and therefore, he filed W.P.No.26330 of 2019.

3. While that being so, another case in Crime No.3/2018 was registered against the petitioner and his subordinates by V&AC and in that case, the officials did not file the report within the time limit. By order in G.O.(D)No.30 dated 11.02.2021, the first respondent revoked the order of suspension issued against the petitioner and reinstated him into service. The said Government Order set out the criminal case and the departmental action that was pending against the petitioner and taking note of the same, directed reinstatement. Immediately thereafter, vide orders dated 23.02.2021, an order of punishment was imposed by the first respondent by deviating from the finding of the Enquiry Officer and imposing the penalty of treating the period of suspension from 25.04.2018 to 11.02.2021 as penalty and thus the disciplinary proceedings initiated against the petitioner came to an end. However, to his shock and surprise, the first respondent has issued the impugned G.O. (D)No.182 dated 26.10.2021, once again placing him under suspension by referring to the pending criminal case in which charge sheet has now been filed in S.C.No.3 to 11/2021.

4. The learned counsel for the petitioner would submit that after passing final orders in the disciplinary proceedings by imposing the punishment of treating the suspension period as penalty, once again placing the petitioner under suspension is totally unwarranted and unsustainable.

5. Mr.A.M.Ayyadurai, learned Government Advocate has drawn the attention of this Court to the counter affidavit filed by the respondents 1 and 2 and would submit that suspension of the petitioner was revoked in G.O.(D)No.30, Public Works (E2) Department dated 11.02.2021, pending finalization of departmental proceedings, a criminal case and a regular case against him. Subsequently, final orders have been passed in the departmental proceedings holding that charges 1 and 4 have been partly proved and for the partly proven charges, the punishment of treating his period of suspension from 25.04.2018 to 11.02.2021 as penalty was imposed on him. At the time of revocation of the suspension of the petitioner on 11.02.2021, a charge sheet in Crime No.6/2015 was not taken on file by the court of competent jurisdiction. The criminal case against the petitioner in S.C.Nos.3 to 11/2021 were taken on the file of the Chief Judicial Magistrate at Thoothukudi on 22.03.2021. When the said fact was brought to the notice of the Government, the



petitioner had been placed under suspension again vide G.O. (D)No.182, Public Works (E1) Department dated 26.10.2021 and therefore, there is no arbitrariness in the action taken by the Government and the Government official facing two criminal cases for misappropriation of money cannot be allowed to continue in service and therefore, he was rightly placed under suspension once again in public interest.

6. In the light of the above facts and the submissions made, this Court is of the view that the petitioner may be posted in a non-sensitive post and further permits the petitioner to submit a representation to the second respondent within a period of one week from the date of receipt of a copy of this order for revocation of the suspension order and on such representation being filed, the second respondent shall consider the same and pass orders on merits and in accordance with law within a period of three weeks thereafter.

7. The Writ Petition stands disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

Jvm

To

1.The Additional Chief Secretary
Government of Tamil Nadu,
Public Works (E1) Department,
Fort St.George, Chennai-9.

2.The Additional Chief Secretary,
Government of Tamilnadu,
Water Resources Department,
Fort St.George, Chennai-9.

+1 CC to Mr.V.Vijay Shankar, Advocate sr 12657.

W.P.No.24394 of 2021

NRJK(CO)
SP(02/03/2022)