



WEB COPY



WP No.33513 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27-10-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.33513 of 2018

And

WMP Nos.38892 of 2018 and 23138 of 2020

R.Vadivel

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Petitioner

VS.

1.The Secretary,
PWD Department,
Secretariat,
Chennai-9.

2.Electrical Engineer,
PWD Department,
Electrical Division-II,
Chennai-5.

3.The Electrical Engineering,
Public Works Department,
Tourist Bungalow Complex,
Nehruji Road,
Villupuram.

..

Respondents



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Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to impugned order passed by the second respondent vide Proc.No.EA1/189/2015 dated 16.11.2015 and quash the same and consequently direct the respondents to the petitioner to join service with all consequential benefits accordingly.

For Petitioner : Mr.M.Elumalai for
Mr.V.Krishnamoorthy

For Respondents : Mr.S.Ravichandran,
Additional Government Pleader.

O R D E R

The order of suspension passed by the second respondent in proceedings dated 16.11.2015, is under challenge in the present writ petition.

2. The petitioner was holding the post of Wireman Grade-II in the office of the Assistant Engineer, Electrical Sub Division, Cuddalore and he was placed under suspension on the ground that he was arrested on 05.11.2015 by the Department of Vigilance and Anti-Corruption, Cuddalore



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detachment for accepting illegal gratification of Rs.27,000/- from the complainant Thiru K.Murugesan, S/o.Kanniyappa Goundar and remanded to judicial custody on the same day.

3. A criminal case was registered against the writ petitioner in Crime No.13 of 2015 under Section 7 of the Prevention of Corruption Act, 1988 is pending for trial.

4. The learned counsel for the petitioner was mainly contended that there is no progress in the departmental disciplinary proceedings and the petitioner is under suspension for a long period and thus an order impugned is liable to be set aside.

5. Prolonged suspension no doubt is not preferable. On initiation of departmental disciplinary proceedings, the Authority Competent is expected to dispose of the same as expeditiously as possible. The doubt arises in the mind of the Disciplinary Authority whether the proceedings can be continued during the pendency of the criminal



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proceedings, since the allegations in the criminal proceedings and in the departmental disciplinary proceedings are one and the same.

6. As far as the charges are concerned, the simultaneous proceeding are permissible. There is no bar to continue the departmental disciplinary proceedings even during the pendency of the criminal case. Thus, the Authorities have to take a decision in this regard and if the documents and evidences are available to proceed with the departmental disciplinary proceedings, then they are bound to continue the same and dispose of the proceedings as expeditiously as possible.

7. Only if the documents are not available for the purpose of continuing the departmental disciplinary proceedings, then the decision may be taken to keep the proceedings in abeyance till the disposal of the criminal case registered against the delinquent official. In such circumstances, the Authorities are bound to review the order of suspension periodically.



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8. Keeping an employee for a continuous suspension for a long period is also bad in law, as the Subsistence Allowance has been paid without extracting any work, which will result in unnecessary financial loss to the State Exchequer. Thus the prolonged suspension is to be avoided at all circumstances and the decision in this regard is to be taken by the Competent Authorities then and there. In the event of reinstatement, such employees, who all are facing criminal cases may be posted in a non-sensitive post. If the records are available or if it is collected from the Department of Vigilance and Anti-Corruption, then the Disciplinary Authority shall proceed with the departmental enquiry and dispose of the same by following the procedures as contemplated.

9. In this regard, the Government also issued guidelines in G.O.Ms.No.81, Human Resource Management (N) Department dated 04.08.2022. The guidelines issued by the Government are to be followed in the cases of simultaneous proceedings, as the procedures for criminal case and departmental disciplinary proceedings are distinct and different.



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10. In view of the facts and circumstances, the respondents are directed to take a decision and while doing so, review the order of suspension and pass appropriate orders on merits and in accordance with law, without causing any undue delay. The respondents are directed to complete the abovesaid exercise within a period of eight weeks from the date of receipt of a copy of this order.

11. With the abovesaid directions, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

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Index : Yes/No.

Internet : Yes/No.

Speaking Order/Non-Speaking Order.

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S.M.SUBRAMANIAM, J.

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