

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.6403 of 2022

S.Selvakumar

... Petitioner

Vs.

The Superintending Engineer,
O/o. The Superintending Engineer,
TNEB,
Tiruenlveli Electricity Distribution Circle,
Maharaja Nagar,
Tiruenlveli District – 11.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Suspension Order in Memo No.020776/322/Adm.IV/A.I/F.Confidential/2013 dated 01.08.2013 on the file of the Respondent and consequential impugned rejection order in Ku.A.No. 013116/413/NiPi.4/Vu.1/Ko.Thapa.Ni.Ve/dated.29.06.2019 on the file of Respondent and quash the same as illegal and consequently directing the Respondent to revoke the Suspension order dated 01.08.2013 and reinstate the petitioner in the post of Assistant Engineer in light of the guidelines issued under chapter -II, Section 2(3) of Tamil Nadu Electricity Board Employees Discipline and Appeal Regulations within the time stipulated by this Court.

For Petitioner : Mr.I.Pinaygash,
For M/s.Isaac Chambers.

For Respondent : Mr.S.Arivalagan,
Standing Counsel.

ORDER

Heard the learned counsel on either side.

2.The writ petitioner is employed as Assistant Engineer in TANGEDCO. He was implicated in Crime No.4 of 2013 registered on the file of the Deputy Superintendent of Police, Vigilance and Anti-Corruption Department, Tiruenlveli Detachment dated 30.07.2013. He was suspended from service. The order suspending the writ petitioner cannot be interfered with. In fact, he was rightly suspended. When a person has been arrested in a trap case, the suspension order has to follow as a matter of course. The only question that arises for my consideration is whether the writ petitioner should continue to be under suspension.

3.The learned counsel for the petitioner places reliance on the decision of the Hon'ble Supreme Court reported in **2015 (7) SCC 291 (Ajay Kumar Choudhary Vs Union of India)**. However, the learned standing counsel for the

respondent would point out the Hon'ble Full Bench of this Court in the decision reported in ***(2022) 2 CTC 353 (FB) (P.Kannan Vs. Commissioner for Municipal Administration and Others)*** had held that the judgment of the Hon'ble Apex Court in the case of Ajay Kumar does not lay down an absolute proposition of law that an order of suspension cannot be continued beyond the period of three months.

4.Looked at from any angle, keeping an employee under suspension for nine years cannot be justified. After all the petitioner has only been implicated in a criminal case. He is presumed to be innocent till he is found guilty. In similar circumstance, a learned Judge of this Court vide order dated 25.07.2019 made in W.P.No.11967 of 2018 after referring earlier decisions had held as follows:-

“14.In same lines, various High Courts and particularly this High Court have passed numerous orders setting aside the suspension order and directed the authorities concerned to post the suspended officers concerned in non-sensitive posts. This was done keeping in mind public interest, as payment of huge subsistence allowance without extracting work from the employee concerned, drains public exchequer. Moreover, the person accused is entitled to speedy trial under [Article 21](#) of the Constitution of India. Therefore, in order to uphold the public interest and also constitutional imperatives, the suspension orders have been interfered with by the Courts.

15.In view of the above, this Court has no hesitation in allowing the Writ Petition. Accordingly, the impugned order dated 25.06.2016 in bearing its Ref.No.சு/ஆ/எண்.008003/1530/நீ/உம/நீர். 3/33/கோ.ஈ.&ஏ.பி./2016 and the reply dated 07.11.2017 bearing its Memo.No.10723/ 329/Adm.3/C.2/F.DV & AC/Suspension/2017 passed by the 4th Respondent are hereby set aside and the 2nd respondent is directed to reinstate the petitioner with all attendant benefits. While reinstating the petitioner, the 2nd respondent may ensure that the petitioner shall not be posted to any sensitive post. The order shall be complied with by the 2nd respondent within a period of four weeks from the date of receipt of a copy of this order.”

Respectfully adopting the very same approach, I direct the respondents to reinstate the petitioner in service and post him in a non-sensitive post.

5.The wit petition is allowed accordingly. No costs.

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Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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