



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.04.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.17255 of 2021

W.M.P (MD).No.14107 of 2021

M.Maladevi

... Petitioner

Vs.

1.The Inspector General of Registration,
Santhome,
Chennai-600 028.

2.The Deputy Inspector General of Registration,
Madurai Region,
Madurai.

3.The District Registrar (Administration),
Ramanathapuram,
Ramanathapuram District.

4.The Sub-Registrar,
Mudhukulathur,
Ramanathapuram District-623 503.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records relating to the order of suspension issued in proceedings No.4496/A1/2020 dated 09.10.2020 on the file of the second respondent and the consequential order in Na.Ka.No.2293/A1/2020-1 dated 09.10.2020 on the file of the third respondent, quash the same.

For Petitioner : Mr.V.Kannan
for Mr.S.Doraisamy

For Respondents : Mr.J.John Rajadurai
Government Advocate

O R D E R

The order of suspension dated 09.10.2020 placing the petitioner under suspension on account of registrartion of criminal case and with reference to malpractices committed in Tamil Nadu

<https://hcservices.ecourts.gov.in/hcservices/>



Public Service Commission Selection process is under challenge in the present writ petition.

2. The petitioner was working as Assistant in the office of the District Registrar, Ramanathapuram. The petitioner was arrested by CBCID on 06.10.2020 and released on bail. A criminal case was registered under Sections 465, 468, 471 and 120(b) of IPC. Therefore, the Department initiated disciplinary proceedings and placed the petitioner under suspension. The allegation against the petitioner is that she has criminally conspired with some accused and achieved higher scores in Group-IIA Services 2017 by committing malpractice and got selected and joined as Assistant in the office of the District Registrar, Ramanathapuram.

3. The learned Additional Government Pleader made a submission that there was large scale malpractice in the matter of selection process conducted in the Tamil Nadu Public Service Commission, during the relevant point of time and the Government ordered investigation through CBCID. Therefore, the petitioner is not entitled for any relief.

4. This Court is of the considered opinion that there is no bar for the Department to collect the evidence and continue the departmental disciplinary proceedings, during the pendency of the criminal case and the principles in this regard are considered by this Court in W.P.(MD) No.17378 of 2019 on 21.02.2022 which reads as under:-

(i) *It is a settled law that criminal case and the departmental disciplinary proceedings may be initiated simultaneously as the case may be;*

(ii) *An order of suspension, if required, may be issued in the prescribed format as per the rules;*

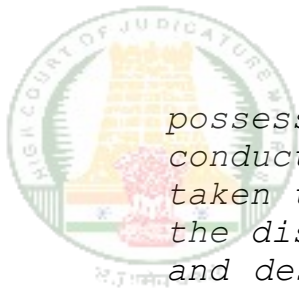
(iii) *If the records and evidences are available with the disciplinary authority, then without any loss of time, charge memorandum shall be issued and the disciplinary proceedings may go on;*

(iv) *The question to be considered is whether simultaneous proceedings may go on or not?;*

(v) *The departmental domestic enquiry and the criminal trial shall proceed simultaneously and the decision in the criminal case would not materially affect the outcome of the domestic enquiry;*

(vi) *The nature of both proceedings and the test applied to reach final conclusion in the matter are entirely different.*

(vii) *If the case involves complicated questions of fact and law and the disciplinary authority is not in*



possession of the required materials for the purpose of conducting enquiry, then administrative decision may be taken to keep the departmental proceedings in abeyance. till the disposal of the criminal case. However, the advisability and desirability has to be determined considering the facts of each case by the authority concerned. Therefore, it would be expedient that the disciplinary proceedings are conducted and completed as expeditiously as possible.

(viii) There is no legal bar for both proceedings to go on simultaneously.

(ix) Acquittal by a criminal Court would not debar an employer from exercising power in accordance with service rules and regulations in force. The two proceedings, criminal and departmental are entirely different. They operate in different fields and have different objectives. Whereas the object of criminal trial is to inflict appropriate punishment on offender, the purpose of departmental enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance with service rules.

(x) In the criminal case, the burden of proof is on the prosecution and unless the prosecution is able to prove the guilt of the accused 'beyond reasonable doubt', he cannot be convicted by a Court of law. In departmental enquiry, on the other hand penalty can be imposed on the delinquent officer on a finding recorded on the basis of 'preponderance of probability'. To convict a person under criminal law, high standard of proof is required. Even the benefit of doubt would be a benefit for the accused in a criminal case. However, no such strict proof is required in a departmental disciplinary proceedings. Therefore, there is absolutely no bar for the respondents to continue the departmental disciplinary proceedings and conclude the same and pass final orders.

(xi) An order of conviction if any passed in the criminal case or in criminal appeal, after disposal of the disciplinary proceedings, then if necessary the Head of the department or the Government may exercise the power of review as the case may be under the relevant rules.

(xii) Order of acquittal if at all passed in the criminal case or in criminal appeal, the same would not affect the final orders already passed in the departmental disciplinary proceedings based on the domestic enquiry conducted, in view of the fact that acquittal in a criminal



case cannot be a ground for seeking exoneration from the departmental disciplinary proceedings.

(xiii) If the criminal case was registered under the Prevention of Corruption Act, 1988 and if the original records are seized by the investigating agency, then the disciplinary authority may obtain the true copies of the documents and proceed with the departmental disciplinary proceedings.

(xiv) As far as the departmental corruption allegations are concerned, it is not necessary that the disciplinary authority should wait for the final disposal of the criminal case registered under the Prevention of Corruption Act, 1988.

5. Thus, it is made clear that the Department, in the event of any availability of document, may collect the same and continue the proceedings. This being the principles to be followed, the order of suspension at this point of time cannot be revoked. However, the Competent Authorities are bound to review the suspension order periodically and the necessity for continuance of suspension of the petitioner.

6. In view of the facts and circumstances, this Writ Petition is devoid of merits and stands dismissed. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (RTI)

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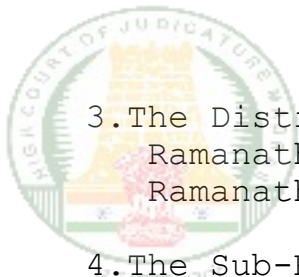
/ /2022

Sub Assistant Registrar(CS)

Ssb

To

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- 2.The Deputy Inspector General of Registration,
Madurai Region,
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+1 CC to M/s.V. KANNAN, Advocate (SR-21570[F] dated 27/04/2022)

W.P.(MD) No.17255 of 2021

26.04.2022

_RD(25.05.2022) 5P 6C