



WEB COPY



W.P.No.12194 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2023

CORAM :

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.12194 of 2021

G.Dhayalan

... Petitioner

Vs.

State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Energy (OP) Department,
Secretariat,
Chennai – 600 009.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus, to call for the records related to the G.O.No.21 dated 09.05.2019, issued by the respondent and to quash the same and to further reinstate the petitioner in service.

For Petitioner : Mr.V.Balsubramani

For Respondent : Mr.E.Sundaram,
Government Advocate



W.P.No.12194 of 2021

WEB COPY

ORDER

This writ petition has been filed challenging the Government order passed in G.O.No.21, dated 09.05.2019, whereby the request made by the petitioner for reviewing the suspension order passed in the year 2016, was rejected.

2.The case of the petitioner is that he was appointed as an Assistant Section Officer in the year 2009. On 29.12.2016, a suspension order came to be passed against the petitioner. This suspension order was passed by virtue of a criminal case registered in Crime No.15 of 2013, for offence under Section 7 and 13(2) r/w Section 13(1)(d) of Prevention of Corruption Act 1988 and Section 120B I.P.C. There are totally seven accused persons in this case and the petitioner was arrayed as A2.

3.The petitioner made a representation in the year 2017, seeking for reviewing the order of suspension passed against him and since the same was not considered, he filed W.P.No.26491 of 2018, before this Court. The said writ petition was disposed of by an order dated 06.04.2018 and the



W.P.No.12194 of 2021

respondents were directed to consider the representation made by the petitioner.

4.Pursuant to the above order, the impugned Government Order came to be passed on 09.05.2019 and considering the nature of the criminal proceedings, the respondents refused to review the suspension order passed against the petitioner. Aggrieved by the same, the present writ petition has been filed before this Court.

5.When the matter came up for final hearing on 21.01.2023, this Court passed the following order:

The suspension order has been passed against the petitioner on 29.12.2016 and this writ petition has been filed seeking for the termination of the suspension order.

2.The learned counsel for the petitioner is directed to take instructions on the stage of the criminal case and if the criminal case itself is in the fag end, direction can be given for the disposal of the criminal case itself.

3.Post this case under the caption 'For Orders' on 01.02.2023.



WEB COPY

6. When the matter was taken up for hearing today, it was brought to the notice of the Court that the criminal proceedings are still pending and the petitioner and the other accused persons have filed discharge petition and the same was pending before the Chief Judicial Magistrate, Vellore.

7. Heard Mr.V.Balsubramani, learned counsel for the petitioner and Mr.E.Sundaram, learned Government Advocate appearing for the respondent.

8. In the considered view of this Court, the petitioner has been kept under suspension for nearly 7 years. The petitioner has been receiving salary without his services being utilized. Such continuous payment of salary in the name of subsistence allowance for years together is a drain on the public exchequer. It is true that when the earlier order was passed on 09.05.2019, the respondent did not find any ground to review the suspension, considering the nature of charges. However, more than 3 ½ years has now passed by and the petitioner is continuing to be in suspension and he is happily receiving the amount paid by the respondent every month. In view of the same, it will



W.P.No.12194 of 2021

be left open to the respondent to atleast consider extracting the services of the petitioner in some insensitive post.

9.In the light of the above discussion, there shall be a direction to the petitioner to submit a fresh representation to the respondent seeking for the review/revocation of the suspension order passed on 29.12.2016 and the same shall be considered on its own merits and in accordance with law and by keeping in mind the the observation made in this writ petition. A decision shall be taken in this regard by the respondent within a period of **four weeks** from the date of receipt of a copy of this order.

10.This writ petition is disposed of with the above direction. No costs.

01.02.2023

2/2

vm/kp

Index : Yes/No

Internet : Yes

Speaking Order/Non-Speaking Order

Neutral Citation Case : Yes/No



WEB COPY



W.P.No.12194 of 2021

N.ANAND VENKATESH, J.

vm/kp

To

The Principal Secretary to Government,
Energy (OP) Department,
Secretariat,
Chennai – 600 009.

W.P.No.12194 of 2021

01.02.2023

2/2

Page No.6 of 6