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W.P.No.32885 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.32885 of 2023

S.Elumalai

...Petitioner

Vs

The Superintending Engineer,
Office of the Superintending Engineer
(TANGEDCO),
Mettur Electricity Distribution Circle/
Mettur Dam,
Salem District.

...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned suspension order passed in memo No. 105/SE/MEDC/MTR/ADM II/A3/F-Suspension/2021 dated 13.04.2021 by the respondent and quash the same as illegal and consequently direct the respondent to reinstate the petitioner into service forthwith as Commercial Assistant.

For Petitioner : Ms.A.Nethra

For Respondent : Mr.K.Rajkumar, Standing Counsel



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ORDER

With the consent of both the parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

2. On the ground of prolonged suspension, the petitioner herein seeks interference to the suspension order.

3. The Hon'ble Supreme Court, in the case of ***Ajay Kumar Choudhary v. Union of India***, reported in ***(2015) 7 SCC 291***, had set certain guidelines with regard to prolonged suspension. On a reference made by me, the Hon'ble Full Bench of this Court, in the case of ***P.Kannan Vs. Commissioner of Municipal Administration and others*** reported in ***(2022) 2 CTC 353***, had held that the judgement of the Apex Court, in the case of ***Ajay Kumar Choudhary (supra)***, does not lay down an absolute proposition of law that an order of suspension cannot be continued beyond the period of three months on the circumstances mentioned therein and that the order of suspension should be analysed on the facts of each case, considering the gravity of charges and the Rules



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applicable. It was further held that the revocation of the suspension with a direction to the employer to post the delinquent in a non-sensitive post, as held in *Ajay Kumar Choudhary's case (supra)*, also cannot be endorsed or directed as a matter of course.

4. In line with the orders passed by the Hon'ble Supreme Court, as well as the Hon'ble Full Bench of this Court, the Government, in G.O.(Ms) No.81, Human Resources Management (N) Department, dated 04.08.2022, had stipulated a compendium of instructions for review of suspension orders in matter which are pending enquiry into grave charges.

5. On consideration of these instructions in G.O.(Ms) No.81, this Court is of the view that the respondent herein could be directed to review the order of suspension, in accordance with the guidelines issued thereunder.

6. In the light of the above findings, there shall be a direction to the respondent herein to consider the petitioner's representation dated



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17.04.2023, seeking for revocation of the suspension order, in accordance with the instructions issued by the Government in G.O.(Ms).No.81, dated 04.08.2022, and pass appropriate orders, within a period of two weeks from the date of receipt of a copy this order.

7. Accordingly, the Writ Petition stands disposed of. No costs.

22.11.2023

Index:Yes/No

Neutral Citation:Yes/No

Speaking order/Non-speaking order

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To

The Superintending Engineer,
Office of the Superintending Engineer
(TANGEDCO),
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M.S.RAMESH,J.

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