



W.P(MD)No.10136 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.04.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.10136 of 2023

and

W.M.P.(MD)No.8955 of 2023

M.Kannan

Vs.

... Petitioner

1.The Chairman cum Managing Director,
Tamil Nadu Electricity Board,
No.144, Anna Salai,
N.P.K.R.R.Maligai, Chennai-600 002.

2.The Chief Engineer (Personal),
Tamil Nadu Electricity Board,
No.144, Anna Salai,
N.P.K.R.R.Maligai, Chennai-600 002.

3.The Chief Engineer (Distribution),
TANGEDCO,
Tirunelveli Region,
Maharaja Nagar,
Tirunelveli-627 011.

4.The Enquiry Officer / Executive Engineer (General),
TANGEDCO/TNEB,
Central Office, Thoothukudi,
Thoothukudi Electricity Distribution Circle,
Thoothukudi.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents 3 & 4 to keep the disciplinary proceedings against the petitioner in abeyance till the completion of trial in criminal case against the petitioner in Spl.Case No.1 of 2021 on the file of the Special Court for Prevention of Corruption Act Cases, Tirunelveli in the light of Judgment reported in (2016) 9 SCC 491 (State Bank of India Vs. Neelam Nag).

For Petitioner : Mr.P.Subbiah

For Respondents : Mr.S.Arivalagan
Standing Counsel

ORDER

Heard the learned counsel on either side.

2. The petitioner is a TANGEDCO employee. He is said to have demanded illegal gratification. Trap was laid. It was successful. The petitioner was arrested. Criminal prosecution was launched against the petitioner. It is now pending on the file of the Sub Court, Tirunelveli in Spl.C.No.1 of 2021 for Prevention of Corruption Case. In the mean while, disciplinary action against the petitioner is about to take off. The petitioner wants this Court to put the enquiry proceedings on hold till the criminal prosecution is concluded.



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3. The learned standing counsel drew my attention to the recent decision passed by the Madurai Bench of Madras High Court wherein a learned Judge of this Court had directed that the employer can parallelly conduct disciplinary proceedings also. In fact, pursuant to the said order, the Government of Tamil Nadu had also issued a G.O. Though the contentions advanced by the learned standing counsel do appeal to me, I am inclined to follow the course of action indicated by the Hon'ble Apex Court in *Neelam Nag case ((2016) 9 SCC 491)*. The petitioner is facing a very serious charge. If his defence is exposed in the departmental enquiry, his right to fair trial guaranteed under Article 21 of the Constitution of India will definitely be affected. At the same time, this Court cannot lose sight of the fact that the criminal case will take a long time to get concluded. The employee will be drawing subsistence allowance in the meanwhile. That is why, to balance the rival interests, the Hon'ble Apex Court held that disciplinary action can be put on hold for a period of one year alone.

4. I therefore, direct the respondents to keep the enquiry proceedings on hold for a period of one year from today. Whether the criminal case gets concluded or not, disciplinary action can very well resume thereafter. As rightly pointed by the learned standing counsel for the respondents, an employee is presently getting 75% of the salary as subsistence allowance.



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Such enhancement is made because an employee should not suffer on account of the pendency of the criminal proceedings. In the case on hand, it is the petitioner who wants to keep the enquiry proceedings on hold. Therefore, the petitioner himself comes forward to say that subsistence allowance can be reduced to 50% of the salary from the current 75%. It will come into effect from 01.06.2023 onwards.

5. With this direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

26.04.2023

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

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