



W.A.(MD) No.781 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.12.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN**

**W.A.(MD) No.781 of 2020
and
C.M.P.(MD) No.4444 of 2020**

1.The District Collector
Tiruchirapalli

2.The District Revenue Officer
Trichy

3.The District Inspector Cell Officer
Tiruchirappalli and Revenue Divisional
Officer (I/C)
Lalgudi, Trichy District

... Appellants

-vs-

S.Nivash

... Respondent

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 26.04.2018, passed in W.P.(MD) No.9480 of 2018, on the file of this Court.

For Appellants : Mr.S.Shanmugavel
Additional Government Pleader

For Respondent : Mr.M.Saravanakumar



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J U D G M E N T

[Judgment of the Court was made by S.M.SUBRAMANIAM, J.]

This writ appeal is directed against the order of the learned Single Judge, dated 26.04.2018, passed in W.P.(MD) No.9480 of 2018.

2. The order of suspension, dated 09.02.2017, passed by the third appellant, was under challenge in the writ proceedings. The learned Single Judge, by order dated 26.04.2018, set aside the suspension order. Challenging the same, the Department has preferred the present writ appeal.

3. The respondent / writ petitioner was placed under suspension vide proceedings dated 09.02.2017, passed by the third appellant, on the ground that a criminal case was registered against him by the Department of Vigilance and Anti-Corruption under the Prevention of Corruption Act, 1988. Departmental disciplinary proceedings were also initiated simultaneously against the respondent. The respondent was placed under suspension. Admittedly, the criminal case is pending. The question arises whether the Disciplinary Authority shall proceed with the departmental disciplinary proceedings during the pendency of the criminal case registered against the



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delinquent. There is no bar for the Disciplinary Authority to proceed against the delinquent under the Discipline and Appeal Rules. In the event of availability of the materials on record, the Disciplinary Authority shall proceed with the departmental disciplinary proceedings and conclude the same by following the procedures as contemplated.

4. In the present case, the respondent was trapped while allegedly accepting bribe for patta transfer proceedings. Thus, a criminal case was registered against him.

5. Prolonged suspension is bad in law in view of the fact that subsistence allowance being paid to the suspended employee, without extracting work, would cause financial loss to the State Exchequer. Keeping an employee under suspension for an indefinite period and paying subsisting allowance to him is not desirable. Per contra, such employees, if possible, may be posted in a non-sensitive post and by extracting work, salary may be paid to him. However, if materials are available on record or in alternate the Disciplinary Authority by collecting the relevant materials from the Department of Vigilance and Anti-Corruption or otherwise may proceed with the departmental enquiry and conclude the departmental disciplinary



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proceedings in the manner contemplated under the Discipline and Appeal Rules.

6. In this regard, the Government has also issued guidelines to be followed in G.O.(Ms) No.81, Human Resources Management (N) Department, dated 04.08.2022. In view of the said Government Order issuing guidelines for completion of the departmental disciplinary proceedings, the appellants are directed to proceed with the enquiry proceedings and if records are not available, review the order of suspension periodically as per the Government guidelines in force.

7. Accordingly, the order dated 26.04.2018, passed by the learned Single Judge in W.P.(MD) No.9480 of 2018, is set aside and the writ appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[S.M.S., J.]

[V.L.N., J.]

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NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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