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W.P.No.16619 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.16619 of 2023

E.Sasikumar

... Petitioner

Vs.

- 1.The Chief Engineer,
Tamilnadu Generation and Distribution Corporation Limited,
Manjakuppam,
Cuddalore,
Cuddalore District
- 2.The Superintending Engineer,
Tamilnadu Generation and Distribution Corporation Limited,
Office of the Superintending Engineer,
Cuddalore Electricity Distribution Circle,
Capper Hills/Cuddalore-4
- 3.The Inspector of Police,
Vigilance and Anti Corruption Department,
Cuddalore,
Cuddalore District

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Mandamus directing the second respondent - the Superintending Engineer Cuddalore to consider the petitioner's representation dated 10.05.2023 in the light of the order passed by the Supreme Court of India in Ajay Kumar Chaudri V. Union of India reported in 2015 (2) SCALES 432 to revoke the Suspension



W.P.No.16619 of 2023

order dated 07.01.2023 having reference Memo No.025638 / SE/ CEDC/ Cud / Adm.1/ A.3/ F.D.P/ 2023 dated 07.01.2023 on the file of the Superintending Engineer, Cuddalore

For Petitioner : Mr.R.Naresh Kumar

For Respondents

For R1 & 2 : Mr.P.Subramanian,
Standing Counsel

For R3 : Mr.K.Tamilvendan,
Government Advocate

ORDER

This writ petition has been filed for direction to the second respondent to consider the representation submitted by the petitioner seeking revocation of suspension order dated 07.01.2023.

2. The petitioner had joined as Assistant Engineer. While he was working as Assistant Engineer in the Office of the third respondent, on the complaint registered in crime No.1 of 2023 for the offence under Section 7 of Prevention of Corruption Act, 2018, the petitioner was arrested and remanded to judicial custody on 05.01.2023. Therefore, the petitioner was deemed to be suspended from service from the date of his arrest by an order dated 07.01.2023 on the file of the second respondent.



W.P.No.16619 of 2023

In pursuant to the registration of FIR, investigation officer filed final report and the same has been taken cognizance in Spl.CC.No.11 of 2023 on the file of the Chief Judicial Magistrate, Cuddalore and it is pending for trial. Simultaneously the second respondent also served charge memo to the petitioner on 04.01.2023 along with show cause notice. So far, the petitioner did not submit his explanation to proceed with the disciplinary proceedings. While being so, the petitioner submitted representation on 10.05.2023 seeking revocation of order of suspension citing the Government order in GO.Ms.No.81 Human Resources Management (N) Department dated 04.08.2022.

3. Heard the learned counsel appearing on either side.

4. The Hon'ble Full Bench of this Court held in the writ petition in WP.No.2165 of 2015 dated 15.03.2022 as follows:

34. For the foregoing reasons, the reference is answered by holding that:

(i) The judgment of the Apex Court in the case of Ajay Kumar Choudhary, supra, does not lay down



W.P.No.16619 of 2023

absolute proposition of law that an order of suspension cannot be continued beyond the period of three months if the memorandum of charges/chargesheet has not been served within three months, or if memorandum of charges/charge-sheet is served without reasoned order of extension.

(ii) The judgment in R.Balaji, supra, has no reference to the earlier judgments of co-equal strength and is thereby rendered per incuriam.

(iii) The issue of challenge to the order of suspension should be analyzed on the facts of each case, considering the gravity of the charges and the rules applicable.

(iv) Revocation of suspension with a direction to the employer to post the delinquent in a non-sensitive post cannot be endorsed or directed as a matter of course. It has to be based on the facts of each case and after noticing the reason for the delay in serving the memorandum of charges/charge-sheet.

5. That apart, now the petitioner is facing criminal prosecution after the trial court has taken cognizance of the final report. Further, the petitioner was also duly served with charge memo by the second respondent and even then, the petitioner failed to submit his explanation.



W.P.No.16619 of 2023

Therefore, the prayer sought for in this writ petition cannot be considered.

As such, this writ petition is devoid of merits and liable to be dismissed.

6. Accordingly, this writ petition is dismissed. There shall be no order as to costs.

25.03.2024

Neutral citation: Yes/No

Index: Yes/No

Speaking/Non-speaking order
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To

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W.P.No.16619 of 2023

G.K.ILANTHIRAIYAN, J.

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W.P.No.16619 of 2023

25.03.2024