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W.A.No.240 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2024

CORAM

THE HON'BLE Mr. JUSTICE R.SURESH KUMAR
AND
THE HON'BLE Mr. JUSTICE K.KUMARESH BABU

W.A.No.240 of 2021
and
C.M.P.No.1020 of 2021

The District Collector,
Panchayat Development Wing,
Tiruvarur,
Tiruvarur District.

... Appellant

Vs.

K.Manoharan

... Respondent

Prayer : Appeal filed under Clause 15 of the Letters Patent Act, praying
to set aside the order dated 20.02.2019 made in W.P.No.648 of 2019.

For Appellant : Mr.K.V.Sajeev Kumar
Special Government Pleader

For Respondent : Mr.P.Kumaravel
for Mr.M.Ravi



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JUDGMENT

(Judgment of the Court was delivered by R.SURESH KUMAR, J.)

This writ appeal has been directed against the order passed by the Writ Court dated 20.02.2019 made in W.P.No.648 of 2018.

2. That the respondent/writ petitioner was holding the post of Block Development Officer and in respect of certain allegations, he was placed under suspension by order dated 24.11.2009. Since the suspension order had been continuing for several years, a request has been made by the respondent/writ petitioner to revoke the order of suspension which has been rejected by the appellant/respondent vide his proceedings dated 28.11.2016. Challenging the same, the said writ petition was filed.

3. The learned Judge who heard the matter after having setting aside the suspension order directed the respondent therein who are the appellant Department herein to reinstate the writ petitioner and post him in one of the non-sensitive post till the completion of the departmental proceedings.



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4. Therefore there has been no impediment for the appellant Department to continue with the departmental disciplinary proceedings which has already been initiated against him. However, this appeal since has been filed where an interim order of stay has been obtained by order dated 09.02.2021 all these years since the matter has been kept pending, the learned Special Government Pleader now submits that, the disciplinary proceedings could not be progressed further because of the pendency of the writ appeal where the stay has been granted.

5. Heard Mr.P.Kumaravel, learned counsel appearing for the respondent who would submit that, several years he is out of service under the order of suspension and the appellant Department without extracting any work from the writ petitioner/respondent paying the subsistence allowance to the extent of 75% of the salary. Therefore he would submit that, instead of keeping this position for ever or years together, the order passed by the learned Judge can be confirmed and the writ petitioner/ respondent can be posted in any one of the non-sensitive post, where it is open to the appellant Department to complete the disciplinary proceedings by conducting an enquiry within a reasonable



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time which may also be fixed by this Court.

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6. We have considered the said submissions made by the learned counsel appearing for both sides.

7. Though the order of suspension in fact has been issued originally on 24.11.2009, we are in 2024, 15 long years have gone where the respondent/writ petitioner had been kept under suspension by paying the subsistence allowance initially 50% and presently 75% of his salary without extracting any work from him.

8. That is the reason why the learned Judge in the order impugned dated 20.02.2019 after having setting aside the suspension order had directed the appellant Department to reinstate the employee/respondent in any one of the non-sensitive post and further directed to proceed with the disciplinary action.

9. Despite this direction had been given in the year 2019, no disciplinary action has been progressed or concluded so far, because, the pendency of the appeal where they were able to get a stay on 09.02.2021, also if at all the stay has been granted by the Division Bench of this Court, that only pertains to the suspension order thereby the appellant



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Department cannot put any self restrictions to proceed against the employee by disciplinary action. Therefore we are not agreeing with the stand taken by the appellant Department in not proceeding against the employee by disciplinary proceedings for all these years. Moreover, without extracting any work from the employee the appellant Department is paying the 75% subsistence allowance which is a mere waste of exchequer, therefore on that ground also the prolonged suspension cannot be approved. Therefore, we do not find any reason to interfere with the view taken by the learned Judge and conclusion reached by him in the order impugned by setting aside the order of suspension.

10. Resultantly, the appeal fails therefore it is liable to be dismissed accordingly is dismissed. There shall be a direction to the appellant Department to complete the disciplinary proceedings against the respondent/employee within a period of six months from the date of receipt of a copy of this judgment. It is further directed that, the appellant Department shall immediately reinstate the respondent/writ petitioner/employee in any one of the non-sensitive post, as directed by the learned Judge in the impugned order, within a period of 30 days from the date of receipt of a copy of this judgment.



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11. With the above directions, the Writ Appeal is dismissed.

However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

[R.S.K., J.]

[K.B., J.]

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Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

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