



W.P.No.26448 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2024

CORAM:

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

W.P.No.26448 of 2023
and W.M.P.No.25855 of 2023

R.Subramanian

... Petitioner

-Vs-

1. The Chief Engineer (Personal),
Tamil Nadu Generation and Distribution
Corporation Ltd.,
NPKRR Maligai No.144,
Anna Salai,
Chennai – 600 002.

2. The Chief Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Coimbatore Region,
Coimbatore – 641 012.

3. The Superintending Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Coimbatore EDC-South,
Coimbatore – 641 012.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India
praying for the issuance of a Writ of Certiorarified Mandamus, calling for
the records relating to the impugned suspension order made in



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Memo.No.005796/AdmIII/A.1/F.DV and AC/D.No.370/2022:
25.11.2022 and consequential rejection order made in
Ku.A.003697/211/NiPi3/U1/Ko.Suspension2023 dated 19.08.2023
passed by the third respondent and quash the same and consequently
direct the respondents to reinstate the petitioner in any non sensitive post
with all benefits including continuity of service.

For Petitioner : Mr.V.Anandhamurthy

For Respondents : Mr.K.Rajkumar
Standing Counsel

ORDER

This writ petition has been filed challenging the order of
suspension dated 25.11.2022.

2. Heard the learned counsel on either side and perused the
materials available on record.

3. The petitioner had joined as Assistant in the Tamil Nadu
Electricity Board on 13.02.1989. Thereafter, he was promoted to the post
of Wireman and Technical Assistant. Subsequently, he was promoted to
the post of Junior Engineer-Grade II and Junior Engineer-Grade I. While
he was working as Junior Engineer Grade I, on a complaint, FIR has been



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registered in Crime No.17 of 2022 dated 24.11.2022, on the file of Vigilance and Anti-Corruption, Coimbatore for the offences under Section 7 of Prevention of Corruption Act, 1988 as amended in 2018, in which the petitioner is arrayed as A1, on the allegation that the petitioner demanded illegal gratification from the defacto complainant and received a sum of Rs.5000/- through other accused. Pursuant to the registration of FIR, the petitioner was suspended from service. Now, the investigation is pending in Crime No.17 of 2022. So far, the petitioner was not served with any charge memo. For the past 1 ½ years, the order of suspension is maintained and the petitioner has been paid subsistence allowance without extracting any work. In fact, the other accused viz., the other delinquent in the same FIR was also suspended from service. He challenged the order of suspension before this Court in W.P.No.28067 of 2023.

4. This Court, by an order dated 28.11.2023 in W.P.No.28067 of 2023 passed the following order:-

“ 3. The guidelines governing a Government employee to be kept under prolonged suspension, has



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been dealt with by the Hon'ble Supreme Court in the case of *Ajay Kumar Choudhary v. Union of India*, (2015) 7 SCC 291 at page 303, in the following manner:-

“21. We, therefore, direct that the currency of a suspension order should not extend beyond three months if within this period the memorandum of charges/charge-sheet is not served on the delinquent officer/employee; if the memorandum of charges/charge-sheet is served, a reasoned order must be passed for the extension of the suspension. As in the case in hand, the Government is free to transfer the person concerned to any department in any of its offices within or outside the State so as to sever any local or personal contact that he may have and which he may misuse for obstructing the investigation against him. The Government may also prohibit him from contacting any person, or handling records and documents till the stage of his having to prepare his defence. We think this will adequately safeguard the universally recognised principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognise that the previous Constitution Benches have been reluctant to quash proceedings on the grounds of delay, and to set time-limits to their duration. However, the imposition of a limit on the period of suspension has not been discussed in prior case law, and would not be contrary to the interests of justice. Furthermore, the direction of the Central Vigilance Commission that pending a criminal investigation, departmental proceedings are to be held in abeyance stands superseded in view of the stand adopted by us.”

4. Admittedly, the criminal case has not concluded, the consequence of which, the petitioner is under



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suspension for nearly one year. There is nothing on record to show that the respondents had passed a reasoned order for extension of the suspension period beyond 3 months as contemplated in Ajay Kumar Choudary's case (supra). Accordingly, the suspension order itself cannot be sustained.

5. In the light of the above observation, the impugned suspension order dated 25.11.2022 is revoked. Consequently, there shall be a direction to the respondents herein to reinstate the petitioner back into service with back wages from 25.11.2022 onwards, within a period of one week from the date of receipt of a copy of this order. The Writ Petition stands allowed, accordingly. No costs. The connected miscellaneous petitions are also closed."

5. In view of the above, the third respondent is directed to revisit the order of suspension in the light of the above order passed by this Court and pass order to reinstate the petitioner into service and place him in a non sensitive post, till the completion of disciplinary proceedings, within a period of two weeks from the date of receipt of a copy of this order.

6. With the above directions, this writ petition is disposed of.



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Consequently, connected Miscellaneous petition is closed. There shall be
no order as to costs.

19.03.2024

Internet: Yes

Index : Yes/No

Neutral Citation: Yes/No

Speaking/Non Speaking order
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G.K.ILANTHIRAIYAN. J.

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