



W.P(MD).No.8772 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 19.02.2024

ORDER PRONOUNCED ON : 23.02.2024

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD).No.8772 of 2023
and W.M.P(MD).Nos.8022 & 8023 of 2023
and WMP(MD).No.21102 of 2023**

C.J.Christopher Signi

....Petitioner

Vs

1.The Government of Tamil Nadu
Represented by its Principal Secretary
Energy (D2) Department, 5th Floor
Secretariat
Fort St.George
Chennai -09

2.The Chief Electrical Inspector to Government
Office of the Chief Electrical Inspector of Government
Thiru.Vi.Ka.Industrial Estate
Guindy,
Chennai 600 032

3.The Senior Electrical Inspector
Corporation Commercial Complex
Dr.Nanjappa Road
Coimbatore 641 018



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4.The Secretary to Government
Personnel and Administrative Reforms and Department
Secretariat
Chennai -09

5.The State represented by
The Inspector of Police
Vigilance and Anti-Corruption
Kanyakumari Detachment
Nagercoil
Kanyakumari District

....Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus by calling for the entire records pertaining to the order of the first respondent in G.O.Ms.No.96 of Energy (D2) Department dated 27.12.2018 as well the consequential order in G.O(Rt).No.138 Energy (D2) Department dated 13.10.2021 and quash the same and consequentially directing him to reinstate the petitioner as to the post of Electrical Inspector at Tirunelveli District pursuant to the petitioner's representation dated 20.03.2023.

For Petitioner : M/s.P.Jessi Jeeva Priya

For Respondents : Mr.T.Amjadkhan
Government Advocate

ORDER

The present writ petition has been filed challenging the Government Order dated 27.12.2018 wherein the Government had placed the petitioner under suspension and the order dated 13.10.2021 wherein the request of the petitioner for revocation of suspension was rejected.



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A.Factual matrix:

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2.The petitioner herein, when he was working as an Electrical Inspector in Tirunelveli Division was implicated in a criminal case in Crime No.5 of 2018 on 28.09.2018 under Section 7 of Prevention of Corruption (Amendment) Act 2018 and arrested on 23.11.2018. In view of the fact that he was detained for more than 48 hours, the first respondent had passed the impugned order in G.O.Ms.96 Energy (D2) Department dated 27.12.2018 placing the petitioner under suspension with effect from 23.11.2018 until further orders.

3.The petitioner herein had filed W.P.(MD).No.16930 of 2020 seeking to quash the order of suspension and for a direction to reinstate him. The said writ petition was disposed of by this Court on 09.02.2021 with a direction to the respondents to complete the disciplinary proceedings within a period of four months from the date of receipt of a copy of the order. This Court further held that if the respondent is unable to conclude the disciplinary proceedings within a stipulated time, the competent authority shall review the order of suspension in accordance with law.

4.Alleging non-compliance of the said order, the petitioner had filed Contempt Petition(MD).No.911 of 2021. This Court by an order dated 28.01.2022 had closed the contempt petition on the ground that no contempt of Court is made out. However, this Court was pleased to direct the Judicial



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Magistrate, Nagercoil to complete the trial in Spl.S.C.No.2 of 2020 within a period of one year from the date of receipt of a copy of the order.

5.The petitioner herein made a representation to the first respondent on 03.09.2022 seeking to revoke his order of suspension. Another representation was sent by the petitioner to the same respondent on 20.03.2023 seeking to revoke the order of suspension. In the meantime, the first respondent had passed the Government Order in G.O(Rt).No.138, Energy (D2) Department dated 13.10.2021 rejecting his request for review of suspension on the ground that criminal case is pending trial before the competent Court. The impugned order further observed that the disciplinary proceedings initiated as against the petitioner could not be concluded due to the pendency of the said criminal case. Aggrieved over the rejection of request of the writ petitioner for review of suspension, the petitioner herein had challenged the original suspension order dated 27.12.2018 as well as order dated 13.10.2021 wherein the request of the writ petitioner for revocation of suspension has been rejected.

B.Submission of the counsels:

6.According to the learned counsel for the petitioner, the petitioner has been placed under suspension for more than five years. It is a prolonged suspension and it is clearly in violation of time limit fixed under G.O. (Ms).No.81 of Human Resource Management (N) Department dated 04.08.2022. The learned counsel had relied upon Paragraph No.11 of the said



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order and contended that where a Government Servant has been suspended on disciplinary proceedings being contemplated, such proceedings should be initiated immediately and finalized normally within a period of six months. In the present case, even though five years had lapsed, so far no progress has been made. She further contended that in all the cases where the criminal proceedings are pending, the authorities have to review the order of suspension and post the Government Servant in a non-sensitive place in consolidation with appropriate investigating agency.

7.The learned counsel for the writ petitioner had relied upon a judgment of the Hon'ble Supreme Court reported in **(2018) 17 SCC page 677 (State of Tamil Nadu Represented by Secretary to Government (Home) Vs. Promod Kumar, IPS and another)** to contend that the Hon'ble Supreme Court had deprecated the practice of prolonged suspension and had directed the Government to post the delinquent to a non-sensitive post. She had further relied upon a Division Bench judgement of our High Court reported in **(2010) 3 MLJ 625 (State of Tamil Nadu, represented by its Secretary to Government, Personnel and Administrative Reforms (Q) Department, Chennai 600 009 and another)** to contend that when enquiry was not completed within the stipulated time and the department had ignored the direction of the Court for completing the enquiry, the charge memo cannot be proceeded with. The learned counsel had also relied upon a judgement of the



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learned Single Judge of our High Court in ***W.P(MD).Nos.7023 and 14755 of 2017 (T.Thiruselvam Vs. The Joint Director of School Education, Chennai and others)*** dated 23.01.2018 to contend that when a time limit is fixed by a Court for completion of disciplinary proceedings and if the time limit is breached, the disciplinary proceedings must be deemed to have been terminated on the last date fixed for completion of the disciplinary proceedings. Hence, she prayed for allowing the writ petition and to set aside the order of suspension.

8.Per contra, the learned Government Advocate appearing for the respondents had contended that the petitioner was arrested and placed under judicial custody for more than 48 hours and therefore, he was placed under deemed suspension. Based upon the FIR registered against him, a charge sheet has been laid as against the petitioner on 11.09.2020. After considering the seriousness of the allegation made against the petitioner, the department had decided not to review the order of suspension. Since the criminal case was pending, the disciplinary proceedings were not commenced as per the impugned Government Order dated 13.10.2021. However, pending writ petition, the Government had passed an order in G.O.(D).No.13, Energy (D2) Department, dated 25.05.2023 directing the enquiry officer to complete the enquiry and submit his report expeditiously.



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9.The learned Government Advocate relied upon the communication of the Chief Electrical Inspector, Guindy to the effect that the enquiry has been posted on 08.02.2024. Hence, he prayed for dismissal of the writ petition.

10.I have considered the submissions made on either side and perused the material records.

C. Discussion:

11.The petitioner has been placed under suspension with effect from 23.11.2018 on being implicated in a criminal case arising out of Prevention of Corruption Act. In W.P(MD).No.16930 of 2020, this petitioner had challenged the said order of suspension, but this Court had not set aside the suspension order, but had directed to complete the enquiry within a period of four months. The contempt petition filed by the petitioner in Cont.P(MD).No.911 of 2021 has already been closed on 28.01.2022. The main grievance of the petitioner is that the authorities are neither conducting the disciplinary proceedings nor revoking the order of suspension. In the impugned order dated 13.10.2021, the authorities have clearly observed that in view of pendency of the criminal proceedings, they are not proceeding with the disciplinary enquiry. Therefore, the petitioner is under continued suspension without any disciplinary proceedings. The further grievance of the petitioner is that on every time when the enquiry is posted, it is being



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adjourned without any proper reason.

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12. After filing of the writ petition, the Government had changed their view and had directed the enquiry officer to continue with the disciplinary proceedings by way of G.O(D).No.13 Energy (D2) Department, dated 25.05.2023. Therefore, the grievance of the writ petitioner that the disciplinary proceedings have been stopped in view of pendency of the criminal proceedings no longer survives. However, the grievance of the petitioner that the disciplinary proceedings are being adjourned without any proper reason seems to survive. Though the suspension period is more than six years, considering the seriousness of the allegation and the order of this Court in W.P(MD).No.16930 of 2020, this Court is not inclined to set aside the order of suspension. Despite a direction from this Court to complete the enquiry within a period of four months, the authorities have not chosen to complete the enquiry within the time limit citing pendency of the criminal proceedings.

D.Conclusion:

13. In view of the above said facts, the respondents are directed to complete the disciplinary proceedings on or before 15.05.2024. The petitioner is directed to co-operate for the said enquiry without seeking unnecessary adjournments. In case, if the final order could not be passed on or before 15.05.2024, due to any reason not attributable to the delinquent/writ



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petitioner, the respondents herein are directed to revoke the order of suspension and reinstate the petitioner in a non-sensitive post and thereafter proceed with the enquiry.

14. With the above said observation, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

23.02.2024

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
msa



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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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