



WP(MD). No.13149 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 20/06/2024

CORAM

The Hon`ble Ms.Justice R.N.MANJULA

**WP(MD). No.13149 of 2024 and
and WMP(MD) Nos.11653 and 11654 of 2024**

R.Rathinam

... Petitioner

Vs

1. The Superintending Engineer,
Tirunelveli Electricity Distribution Circle,
Tneb/tangedco,
Maharaja Nagar,
Tirunelveli District - 11..

2. The Executive Engineer,
O/o. the Executive Engineer Distribution,
Tangedco,
Kadayanallur,
Tenkasi District – 11..

... Respondents

PRAYER :-Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned Suspension order in Ku.Aa. No.SePo/ViNi/Kadai/VuNiA/NiMe/Vu1/ Ko. Payidai Neekkam/A. No.041/2023 dated 11.10.2023 on the file of the respondent No.2 and consequential impugned Rejection Order in Ku.Aa. No. SePo/ViNi/Kadai/ VuNiA/NiMe/Vu1/Ko. Paniyidai Neekkam/A. No.



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014/2024 dated 07.03.2024 on the file of the respondent No.2 and consequential impugned Rejection Order in Ku.Aa. No.010149/NiPi. 4/Vu.1/Ko.O.Na/2024 dated 21.05.2024 passed by the 1st respondent and quash the same as illegal and consequently direction directing the 1st respondent to revoke the suspension of the petitioner dated 11.10.2023 and reinstate the petitioner in the post of Foreman in the light of the guidelines issued under Chapter -II, Section 2(3) of Tamil Nadu Electricity Board Employees Discipline and Appeal Regulations within the time stipulated by this Court.

For Petitioner : Mr/I.Pinaygash,
For Respondents : Mr.S.Arivalagan

ORDER

Petitioner who was placed under suspension for nearly eight months has filed this Writ Petition challenging the order of suspension in dated 11.10.2023 and 07.03.2024 of the respondent No.2 and the rejection order dated 21.05.2024 of the first respondent and direct the respondents to reinstate the petitioner in service.

2. Learned counsel for the petitioner squarely relies upon the judgment of the Hon'ble Supreme Court in *Ajay Kumar Choudhary Vs. Union of India through its Secretary and another*, reported in AIR 2015



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SC 2389, wherein it is held that the period of suspension should not extend beyond period of three months if memorandum of charges/chargesheet is not served on the delinquent within the said period and even if the charge sheet is served within the said period a reasoned order should be passed for extending the suspension. However, in the said case, the appellant has been served with the charge sheet and so no direction has been given.

3. In the instant case, no charge sheet was served upon the petitioner despite he was placed under suspension for more than eight months. The reason for keeping the petitioner under suspension is on the allegation that the petitioner demanded illegal gratification and a criminal case in this regard has also been filed and it is still pending against him. He relied upon the full bench judgment of the Principal Bench in ***P.Kannan Vs. The Commissioner for Municipal Administration and Ors***, made in W.P.Nos.2165 of 2015 and 21628 of 2018, dated 15.03.2022. In the said case, the Full Bench of this Court has held that the judgment in ***Ajay Kumar Choudhary***'s case does not lay down absolute proposition of law that an order of suspension cannot be



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continued beyond a period of three months if the memorandum of charge sheet is not served within three months. So it is held that the issue of challenge to the order of suspension has to be analysed on the fact of each case and keeping with the gravity of the charges.

4. It is further held that in a case of trap, an order of interference with the order of suspension would have serious consequences. The Full Bench has made a specific observation that all the cases where memorandum of charges/charge sheet was not filed within three months if an order of revocation is passed with a direction to reinstate the delinquent in a non-sensitive post would have also some serious consequences. Hence, due caution should be made before issuing such order.

5. An illustration has also been made in the said order for placing an employee for revoking the suspension of an employee against whom allegation of rape has been made by a co-employee followed by a registration of a criminal case. It is held that merely because a charge sheet could not be submitted within a period of three months, order of



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suspension cannot be revoked with any consequential direction. In the instant case, the petitioner is said to have involved in a trap case but in a case of such a serious nature investigation ought to have been completed within a short time and the petitioner should have been given with a charge sheet. Nothing would have precluded the respondents from furnishing the charge memo if the respondents deems it fit to initiate disciplinary proceedings. But so far, the respondents have not taken any steps in that direction. It is right to state that revoking suspension of this nature would have serious consequence, if the respondents does not show enough seriousness in serving the charge memo at the earliest in order to initiate the disciplinary proceedings and complete it within any specific time frame. Just because the petitioner is said to have trapped and involved in DVAC case, the suspension cannot be kept eternally without any revision.

6. As rendered in the *Ajay Kumar Choudhary's* case, the respondents have not passed any revised orders so as to continue the order of suspension. In such case, paying the subsistence allowance without getting any work done by a staff is also a loss to the respondent



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Board. Hence, I feel pending investigation/pending criminal case, the order of suspension be revoked and the petitioner can be reinstated in some non-sensitive post.

7. In the result, the Writ Petition is disposed of with the above observations. No costs. Consequently connected Miscellaneous Petitions are closed.

20.06.2024

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R.N.MANJULA,J

RR

**ORDER
IN
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