



WP(MD). No.16614 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 24/07/2024

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

WP(MD). No.16614 of 2024
and WMP(MD) No.14379 of 2024

K.Malaisamy

... Petitioner

Vs

1. The Chief Engineer,
8th Floor, TANGEDCO Building, Annasalai
Chennai 600 002.

2. The Chief Engineer, (Distribution)
TNEB building, Race Course Road, Madurai

3. The Superintending Engineer
Ramnad Distribution Circle, TANGEDCO
Ramnad 623 503.

... 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 Memo.No.001010/SE/REDC/RMD/Ado/Adm.1/A.2/F.Dkt/2024 dated 23.02.2024 on the file of the respondent No.3 and quash the same as illegal and consequently direct the 2nd and 3rd respondents to revoke the suspension of the petitioner dated 23.02.2024 and reinstate the petitioner



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in the post of Junior Engineer 1st grade 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 period stipulated by this Court.

For Petitioner : Mr.R.Ramsamy
For Respondents : Mr.B.Ramanathan

ORDER

Heard Mr.R.Ramasamy, learned counsel appearing for the petitioner and Mr.B.Ramanathan, learned counsel appearing for the respondents.

2. The petitioner has filed the writ petition challenging the impugned order of the 3rd respondent dated 23.02.2024 and consequently direct the 2nd and 3rd respondents to revoke the suspension of the petitioner dated 23.02.2024 and reinstate the petitioner in the post of Junior Engineer 1st grade in the light of the guidelines issued under Chapter II Section 2(3) of Tamil Nadu Electricity Board Employees Discipline and Appeal Regulations (hereinafter referred to as 'the Regulations') within the time period stipulated by this Court.



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3. By consent, the writ petition itself is taken up for final disposal at the stage of admission itself.

4. The learned counsel for the petitioner submitted that the petitioner, who has been placed under suspension dated 23.02.2024, has not been issued with the charge memo so far. Attention of the board Regulation under Chapter II Section 2(3) of the Regulations was drawn to show that no suspension shall be extended beyond four months without reviewing. In the instant case, even though the petitioner was placed under suspension as early as on 23.02.2024, even after expiry of five months, no review exercise has been done.

5. However, the learned counsel for the respondents submitted that the petitioner is involved in a DVAC case and hence, the investigation report is awaited.

6. The learned counsel for the petitioner cited the judgment of the Hon'ble Supreme Court rendered in *Ajay Kumar Choudhary Vs. Union*



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of India through its Secretary and another, reported in AIR 2015 SC 2389 and submitted that no suspension order without review and without furnishing a charge memo, after the expiry of three months from the date of suspension, can be continued.

7. In ***P.Kannan Vs. The Commissioner for Municipal Administration and Ors***, (W.P.Nos.2165 of 2015 and 21628 of 2018, dated 15.03.2022), 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 continued beyond a period of three months.

8. No doubt the petitioner has been charged with corruption. As per the Board Regulation, the employees suspension beyond four months should be reviewed periodically. In the present case, no review has been done even after five months period. In DVAC matters, the respondents have to make a consultation with the directorate with V&AC and pass orders in order to avoid hardship that may cause to the Board as well as the employee.



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9. It is needless to state that so long as an employee is kept under suspension, he is entitled to get the subsistence allowance and if the subsistence allowance is paid continuously without extracting any work from the individual that is a loss to the employer as well.

10. In this regard, it is relevant to rely on a decision of this Court dated 20.06.2024 in WP(MD) No.13149/2024, wherein, it is observed as follows:

*“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 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.”*

11. Since the consultation with the directorate of V&AC has not been done so far, though it ought to have been done, I feel that the impugned order of suspension needs to be re-looked for revocation.



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12. In view of the above, the writ petition is disposed and the order of the 3rd respondent in Memo.No.001010/SE/REDC/RMD/Ado/Adm. 1/A.2/F.Dkt/2024 dated 23.02.2024 is quashed. The respondents are directed to revoke the suspension and the petitioner is directed to be reinstated by posting him in any non-sensitive post. No costs. Consequently connected Miscellaneous Petition is closed.

24.07.2024

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R.N.MANJULA,J

RR

**ORDER
IN
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Date : 24/07/2024