



W.P.No.9268 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 20.01.2025**

CORAM:

**THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD**

**W.P.No.9268 of 2020**

N.Mani

...Petitioner

-Vs-

- 1.The Chairman,  
Tamil Nadu Electricity General and Distribution  
Corporation Limited (TANGEDCO),  
NPKRR Maligai, No.144, Anna Salai,  
Chennai – 600 002.
- 2.The Chief Engineer – Personnel,  
Tamil Nadu Electricity General and Distribution  
Corporation Limited (TANGEDCO),  
NPKRR Maligai, No.144, Anna Salai,  
Chennai – 600 002.
- 3.The Chief Engineer – Distribution  
Tamil Nadu Electricity General and Distribution  
Corporation Limited (TANGEDCO),  
Vellore.
- 4.The Superintending Engineer,  
Dharmapuri Electricity Distribution Circle,  
TANGEDCO, Dharmapuri District.
- 5.The Assistant Executive Engineer/O&M/Morappur,  
Dharmapuri Electricity Distribution Circle,  
TANGEDCO, Dharmapuri District.



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6.The Inspector of Police,  
Vigilance and Anti-corruption Department,  
Dharmapuri, Dharmapuri District.

...Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorarified Mandamus, calling for the records of the 5<sup>th</sup> respondent relating to the impugned order 18.09.2019 in so far as the petitioner herein is concerned quash the same as illicit, improper, incompetent, arbitrary and ultra vires and consequently direct the 5<sup>th</sup> respondent herein to reinstate the petitioner in the post of Commercial Inspector at the office of AE/O&M/Doddampatty, Dharmapuri Electricity Distribution Circle, Dharmapuri District by considering the representation dated 22.06.2020 and pass such further orders.

|                |   |                                                  |
|----------------|---|--------------------------------------------------|
| For Petitioner | : | Mr.A.M.Kamalanath                                |
| For R1 to R5   | : | Mr.C.Manoharan<br>Standing Counsel               |
| For R6         | : | Mr.M.Rajendiran<br>Additional Government Pleader |

### **ORDER**

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 5<sup>th</sup> respondent relating to the impugned order 18.09.2019 in so far as the petitioner herein is concerned, quash the same as illicit, improper, incompetent, arbitrary and ultra vires and consequently directing the 5<sup>th</sup> respondent herein to reinstate



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the petitioner in the post of Commercial Inspector at the office of AE/O&M/Doddampatty, Dharmapuri Electricity Distribution Circle, Dharmapuri District, by considering the representation dated 22.06.2020.

2. Learned counsel appearing for the petitioner would submit that the Petitioner was working as a Commercial Inspector at the office of AE/O&M/Doddampatty, Dharmapuri Electricity Distribution Circle, Dharmapuri District. A criminal case was registered against the Petitioner based on the complaint given by one Mrs. Alamelu to the Inspector of Police, Vigilance and Anticorruption, Dharmapuri District and the FIR was registered against me vide Crime No.5/AC/2019 dated 17.09.2019. The Petitioner was remanded to judicial custody on 18.09.2019 and subsequently was enlarged on bail by the order of the Chief Judicial Magistrate, Dharmapuri District.

3. The 5<sup>th</sup> respondent served the Petitioner with a copy of the order of suspension in the prison on 19.09.2019 vide suspension order No.HU.SE.PO/E.PA./MORAPUR/VA.HAA/KO.O.NA/HA.EN.433/2019 dated 18.09.2019 against which the Petitioner made a representation on 22.06.2020. Aggrieved over the same, the Petitioner has come up with the present Writ Petition.



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4. Learned counsel appearing for the petitioner would further submit that the order of suspension should not be extended beyond three months and no extension of the order of suspension has been passed by the respondents. The memorandum of charge sheet is not served to this petitioner and the petitioner has been placed under suspension from 18.09.2010 for the last 5 years. In regard to the criminal case, the learned counsel would submit that the same is pending as on date and no significant progress has been made in the said case.

5. Learned counsel further contended that from a mere perusal of the impugned order, it is evident that this petitioner is entitled to get subsistence allowance and other allowances but the respondents failed to provide with the same on regular intervals and the impugned order has been issued without any opportunity whatsoever, in gross violation of principles of natural justice.

6. Learned counsel drew the attention of this Court to G.O.Ms.No.81, Human Resources Management (N) Department dated 04.08.2022, wherein in para 11(iii) it is stated as follows:

11. The Government, after careful examination, reiterates the guidelines issued in the Government Order second read above with slight modification as follows:-



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(iii) In cases, where a Government Servant has been suspended and the matter has been referred for investigation to the Director of Vigilance and Ant-Corruption for enquiry, the latter should complete the enquiry and send the report to Government through the Vigilance Commission within one year.

Pursuant to the above G.O.Ms.No.81, Human Resources Management (N) Department dated 04.08.2022, in the present case, the enquiry is yet to be initiated for the petitioner as on 18.09.2019.

7. Learned standing counsel appearing for the respondents would submit that in the criminal case, which is pending in Spl.C.C.No.01 of 2021 on the file of the learned Special Judge cum Chief Judicial Magistrate, Dharmapuri, only one witness has been examined out of 15 and the case has been adjourned to 07.01.2025 for cross-examination of L.W-2 and L.W-3 and thereafter adjourned to 20.02.2025.

8. Heard both sides and perused the materials available on record.

9. In the case on hand, the petitioner is under suspension for more than 5 years and he cannot be kept under prolonged suspension as per the judgment of the Hon'ble Supreme Court in the case of **Ajay Kumar**



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**Choudhary Vs. Union of India**, reported in **(2015) 7 SCC 291**, wherein the

Hon'ble Supreme Court held as follows:

“No useful purpose would be served by continuing the first respondent under suspension any longer and that his reinstatement would not be a threat to a fair trial. We reiterate the observation of the High Court that the Appellant State has the liberty to appoint the first respondent in a non sensitive post.”

**10. In view of the above facts and circumstances of the case and the ratio laid down by the Hon'ble Supreme Court of India, this Court is of the considered view that the impugned order passed by the 5<sup>th</sup> respondent dated 18.09.2019 is liable to be quashed and accordingly the same is hereby quashed. Taking into consideration that the petitioner is under prolonged suspension for 5 years and the trial of the criminal case will also take some years, the 4<sup>th</sup> respondent herein is directed to reinstate the petitioner and to give him posting in a non-sensitive post within a period of four (4) weeks from the date of receipt of a copy of this order.**

In the result, the **writ petition stands disposed of**. No costs.

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cda

Index : Yes/No



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Speaking/Non Speaking order

WEB COPY

To

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**J.SATHYA NARAYANA PRASAD, J.**

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