

(2009) 12 MAD CK 0228

In the Madras High Court

Case No : W.A. No. 1818 of 2009 and M.P. No. 1 of 2009

S. Jeevanantham

APPELLANT

Vs

The Government of Tamil Nadu

RESPONDENT

Date of Decision : 15-12-2009

Acts Referred:

Prevention of Corruption Act, 1988 — Section 13(1), 13(2)

Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955 — Rule 17

Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955 — Rule 17

Citation : (2009) 12 MAD CK 0228

Hon'ble Judges : R. Banumathi, J;N. Paul Vasanthakumar, J

Bench : Division Bench

Advocate : G. Krishnakumar, for the Appellant; Raja Kalifulla, Govt. Pleader, for the Respondent

Final Decision : Dismissed

Judgement

R. Banumathi, J.—Challenging order of learned Single Judge in W.P. No. 12819 of 2009 dated 11.11.2009, the appellant has filed this writ appeal.

2. We have heard Mr. G. Krishnakumar, learned Counsel for appellant and learned Government Pleader Mr. Raja Kalifulla for respondents.

3. Appellant was charged for the offence of criminal misconduct of possession of disproportionate assets to his known source of income to the extent of Rs. 1,16,79,874/-. The appellant was arrested by the Vigilance and Anti-Corruption Police on 5.2.2003 and he was also remanded to custody. The appellant was suspended by the 3rd respondent by the order dated 07.2.2003 on the ground that the appellant was arrested and remanded to custody. The appellant made a representation seeking for review of order of suspension and the same was dismissed. The appellant also moved the Government for a review. By G.O.Ms. No. 941, Commercial Taxes and Registration Department, dated 01.09.2006, the Government held that since a criminal case is pending against the appellant for having accumulated assets for more than Rupees one crore and enquiry is also

pending and sanction for prosecution has also been granted by the second respondent, pending criminal trial the question of revoking his suspension, would not arise. By the said Government order, Government has also extended the temporary suspension upto the end of criminal proceedings.

4. Referring to G.O.Ms. No. 941 dated 01.09.2006 and that the appellant has been charge sheeted for the offence u/s 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988, the learned Single Judge has dismissed the writ petition, which is the subject matter of challenge in this writ appeal.

5. The learned Counsel for the appellant submitted that the criminal case has been stayed by this High Court and the trial in the criminal case would take a long time and therefore, there is no justification for keeping the appellant under prolonged suspension till the end of criminal proceedings. It was submitted that the learned Single Judge did not keep in view Rule 17(e)(V) of the Tamil Nadu Subordinate Service (Discipline and Appeal) Rules and that the investigation was over and final report was also filed.

6. From the submissions of both, we find that charges were framed against the appellant and the appellant has filed discharge petition and the same was dismissed by the trial Court. Dismissal of discharge petition has been challenged by the appellant by filing a Criminal revision before the High Court and in that proceedings, stay was granted. In our considered view, the trial in the Criminal proceedings is delayed because of the revision filed by the appellant challenging the order of dismissal of the discharge petition. The pendency of criminal revision cannot be the reason to reconsider the suspension of the appellant, more so, when the appellant has been charge sheeted for the offence punishable u/s 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988 for having disproportionate assets to his known source of income to the extent of Rs. 1,16,79,874/-.

7. Rule 17(e)(ii) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules also provides for placing Government servant under suspension if any criminal offence is under investigation or trial. Rule 17(e)(ii) reads as under:

a complaint against him of any criminal offence is under investigation or trial and if such suspension is necessary in the public interest.

8. Here in this case, the criminal case is pending trial for the appellant's accumulated assets disproportionate to his known source of income for more than Rupees one crore. The authorities felt that such suspension is necessary in the public interest. The learned single Judge has rightly declined to interfere with the order of suspension and we do not find any reason for interfering with the order of the learned Single Judge.

9. In the result, this writ appeal is dismissed. No costs. Consequently, M.P. No. 1 of 2009 is closed.