
(2006) 03 MAD CK 0056

In the Madras High Court

Case No : Writ Petition No. 22230 of 2005, WPMP No. 24247 of 2005 and WVMP No. 518 of 2006

The Chief Engineer (General), Highways and Rural Works

APPELLANT

Vs

P.R. Govindaraju and The Registrar, Tamil Nadu
Administrative Tribunal

RESPONDENT

Date of Decision : 29-03-2006

Acts Referred:

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

Citation : (2006) 2 MLJ 562 : (2006) WritLR 372

Hon'ble Judges : R. Sudhakar, J;P.K. Misra, J

Bench : Division Bench

Advocate : E. Sampath Kumar, for the Appellant; K. Raja, for R1, for the Respondent

Judgement

P.K. Misra, J.—Heard Mr. E.Sampath Kumar, the learned Government Advocate for the petitioner and Mr. K. Raja, learned counsel

appearing for the first respondent.

2. Even though the matter was listed for considering the question of vacating the stay order, since the very same question is involved in the writ

petition, the writ petition is taken up for disposal on merits by consent of both counsel appearing for the parties.

3. In order to appreciate the question raised in this writ petition, it is necessary to notice in detail some of the preceding facts.

4. The first respondent in the writ petition was involved in a case of corruption and in connection with the said case, he was arrested on

08.08.1998 and remanded to custody on 09.08.1998 and he was in custody till 21.08.1998. In view of the provisions containing in Rule 17(e)(i)

(ii) and (2) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, he was placed under suspension with effect from the date on which he

was arrested. Such order was challenged by the first respondent before the Tribunal by filing O.A.No.3523 of 2000 and it was allowed by the

Tribunal, after hearing both sides, on 31.07.2001, which is as follows:

2. The main O.A.is to challenge the order of suspension dated 14.8.1998. An interim stay was granted by this Tribunal on 12.6.2000 against the

order suspending the petitioner retrospectively from 9.8.1998. The petitioner has already served from 9.8.1998 to 14.8.1998. By the impugned

order dated 14.8.1998 the services already rendered by him cannot be treated as a period of suspension.

3. For the foregoing reasons, the O.A.is allowed and the impugned order dated 14.8.1998 is set aside. However, liberty is given to the respondent

to proceed against the petitioner in accordance with law. Consequently, the M.A.No.7274 of 2000 is dismissed.

5. Prima facie it appears that the order of the Tribunal was incorrect inasmuch as the first respondent had not served from 09.08.1998 to

14.08.1998 as he was in custody by then. The erroneous order of the Tribunal was not at all challenged by the Government for a considerable

length of time, i.e. four years. Thereafter, the first respondent filed W.P.No.24502 of 2004, which was allowed by an order dated 06.10.2004,

after hearing both sides, and it reads as follows:

2. Mr. S.Venkatesh, learned Special Government Pleader after taking notice for respondents submitted that the Government is contemplating to

prefer appeal questioning the order of the Tribunal passed in O.A.No.3523/2000 dated 31.07.2001. However, he would submit that as on today,

the order of the Tribunal is in force.

3. In view of the above, the respondents are directed to implement the order of the Tribunal made in O.A.No.3523/2000 dated 31.07.2001 within

two months from the date of receipt of copy of this order, if the order of the Tribunal is not yet challenged by the Government or any order of stay

is obtained and further if there is no legal impediment in implementing the same. The Writ Petition is disposed of accordingly. No costs.

Consequently, W.P.M.P.Nop.29775./2004 is closed.

6. After such order was passed by the learned single Judge, the same was not

challenged in appeal and the order was implemented by reinstating the first respondent in service on 27.06.2005.

7. Even though the Government had filed the writ petition on 19.07.2004, it never bothered to pursue the matter and it was never brought to the notice of the learned single Judge that already one writ petition had been filed. The fact remains that pursuant to the order passed by the learned single Judge, the first respondent herein had already been reinstated by way of implementing the order of the Tribunal as well as the order of the learned single Judge. Thereafter, the present writ petition has been numbered for the first time in November, 2005 and an interim order was obtained from this Court, without disclosing the fact that in the meantime, the order of the Tribunal as well as the learned single Judge has been implemented.

8. It is thus obvious that the interim order of stay has been obtained by not placing before this Court the relevant matters. On the other hand, the Government has passed the impugned order dated 21.02.2006, placing the respondent under suspension, on the basis of the original cause of action, namely, the arrest and subsequent detention in custody for the period more than 48 hours.

9. In these peculiar circumstances, even though we are not happy with the order passed by the Tribunal, we are unable to appreciate the course of action adopted by the petitioner since the present writ petition is hit by laches as well as acquiescence. The fact remains that the Government never challenged the order of the Tribunal for a long period of more than four years and as a matter of fact, the order passed by the Tribunal and the subsequent order passed by the learned Single Judge have been implemented in the meantime, which gives rise to applicability of the principle of acquiescence.

10. For the above reasons, the writ petition fails and accordingly the same is dismissed. No costs. Consequently, W.P.M.P. No. 24247 of 2005 is dismissed and W.P.M.P. No. 518 of 2006 is allowed.