

Secretary To Government and Another

Vs

K. Munniappan

Civil Appeal No. 2503 of 1997

(K. Ramaswamy, K. T. Thomas JJ)

21.03.1997

ORDER

1. Delay condoned.
2. Leave granted. We have heard learned counsel on both sides.
3. This appeal by special leave arises from the order of the Tamil Nadu Administrative Tribunal, made on 25-6-1996 in OA No. 6457 of 1995.
4. The respondent, before being superannuated, was served with a suspension order which reads as under :

"Whereas an enquiry into gave criminal offence against Thiru K. Munniappan, Divisional Engineer (National Highways), Salem now at Paramkudi Highways and Rural Works Division is contemplated."

5. The respondent challenged the said order in the Tribunal. The Tribunal in the impugned order has stated that Rule 17 of the Tamil Nadu Civil Services (CCA) Rules does not empower the appellant to suspend the respondent pending such an enquiry and, therefore, the action taken was illegal. The question is whether the view taken by the Tribunal is correct in law. Rule 17(e)(1) reads as under :

"17. (e)(1) A member of Service may be placed under suspension from services, where

- (i) an enquiry into grave charge against him is contemplated, or is pending; or
- (ii) a complaint against him of any criminal offence is under investigation of trial and if such suspension is necessary in the public interest."

6. A reading of the rule clearly indicates that a member of a service may be placed under suspension from service where an enquiry into grave charge against him is "contemplated" or "is pending"; or a complaint against him of any criminal offence is under investigation or trial and if such suspension is necessary in the public interest. It was alleged that as a result of concerted and confabulated action on the part of the employees an embezzlement of funds of the Government, to the tune of Rs. 7.82 crores took place. The respondent is one of the officers working at the relevant time as Divisional Accountant at the office of the Divisional Engineer. Therefore, the authorities contemplate investigation into the offences. Accordingly, he came to be suspended, pending investigation into grave charges.

7. Smt. Chandan Ramamurthi, learned counsel for the respondent, has contended that the fact that investigation has not been completed though the respondent is still under suspension would show that there are no grave charges against him and, therefore, he cannot be disabled to retire on attaining the superannuation. She also seeks to bring to our notice that against one of the persons who was also under suspension, the Tribunal has allowed the application and set aside the order of suspension, which was confirmed by this Court. Under these circumstances, she contends that it is not a case warranting interference. We are unable to agree with the learned counsel. It is seen that the Tribunal erroneously has proceeded on the premise that the Government has no power to keep an employee under suspension pending enquiry of investigation. Rule 17(e)(1) itself postulates that an officer would be kept under suspension where "enquiry into grave charges is contemplated". Under these circumstances, actual pendency is not a precondition to suspend an officer. Pending further investigation into the offences is one of the grounds. Unless and until an in-depth investigation is done, there would be little scope to identify the persons involved in the crimes and to take follow-up action as per law. If the officer is allowed to retire, there would be no occasion to take effective steps to satisfactorily tackle the enormity of the crime. It is true that there is time gap, but in a case involving embezzlement of public funds by several persons in a concerted way, a threadbare investigation is required to be undertaken by the investigating officer and, therefore, in the nature of the situation, it would be difficult to find fault with the authorities for not completing investigation expeditiously. However, the appellant is directed to have the investigation completed as expeditiously as possible and take appropriate action on an urgent basis.

8. The appeal is accordingly allowed. The OA is dismissed. No costs.