

**Central Administrative Tribunal
Madras Bench**

OA/310/01267/2018

Dated Wednesday the 26th day of September Two Thousand Eighteen

P R E S E N T
Hon'ble Mr. R.Ramanujam, Member(A)
&
Hon'ble Mr.P.Madhavan, Member(J)

sJearaj
S/o Mounisamy,
No.3, Old Market Street,
Mudaliarpet,
Puducherry. .. Applicant
By Advocate **M/s.M.S.Soundara Rajan**

Vs.

The Executive Engineer,
Urban O&M,
O/o Executive Engineer Urban Office,
Electricity Department,
Puducherry. .. Respondent

ORAL ORDER

[Pronounced by Hon'ble Mr.R.Ramanujam, Member(A)]

Heard. The applicant has filed this OA seeking the following relief:-

“Call for the records pertaining to the impugned order of suspension in proceedings No.1054/ED/EE-U O&M/Estt./U5/2018 dated 11.9.2018 on the file of the respondents and set aside the same and pass such further or other orders as this Tribunal may deem fit and proper in the circumstances of the case and thus render justice.”

2. Learned counsel for the applicant submits that the applicant had been deemed to have been suspended w.e.f. the date of his conviction on 13.7.2018 in terms of sub-rule (2) (b) of Rule 10 of the CCS (CCA) Rules, 1965 by Annexure A6 impugned order dated 11.9.2018. Attention is drawn to the following provisions in the rule extracted below:-

“10(2) A Government servant shall be deemed to have been placed under suspension **by an order of appointing authority**-

(a) with effect from the date of his detention, if he is detained in custody, whether on a criminal charge or otherwise, for a period exceeding forty-eight hours;

(b) with effect from the date of his conviction, if, in the event of a conviction for an offence, he is sentenced to a term of imprisonment exceeding forty-eight hours and is not forthwith dismissed or removed or compulsorily retired consequent to such conviction.”

It is accordingly argued that an order regarding deemed suspension could only be passed by the appointing authority and not by anyone subordinate to him. However, inspite of Annexure A1 Memo of the respondents dated 25.5.2011 by which the applicant was granted appointment by the Superintending Engineer, the impugned order dated 11.9.2018 was issued by an Executive Engineer which was violative of

the said provision, it is contended.

3. A perusal of the impugned order does show that the order had been signed by the Executive Engineer and it is not even mentioned therein that the approval of the Superintending Engineer was taken to issue the order. Nonetheless, it would appear that even if the impugned order is withdrawn and reissued under the signature of the Superintending Engineer, the date from which deemed suspension would take effect would not change and there would be no material benefit to the applicant on account of a change in the date of issue of the order *per se*. However, since the learned counsel insists that such order could not be issued by the Executive Engineer, we are of the view that the applicant could be permitted to make a representation drawing the attention of the competent authority to the aforesaid provision within one week from the receipt of a copy of this order. On receipt of such representation, the competent authority shall consider the same in accordance with law and pass a reasoned and speaking order within a period of two weeks thereafter.

4. OA is disposed of at the admission stage.

(P.Madhavan)
Member(J)

26.9.2018

(R.Ramanujam)
Member(A)

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