

TAMIL NADU GENERATION AND DISTRIBUTION CORPORATION LIMITED

SECRETARIAT BRANCH,

144, Anna Salai,
Chennai-600 002.

Memorandum (Per) No.31294/A18/A181/2016-1, Dated the 27th June, 2016.

Sub: Establishment - Limitation fixed on the period of suspension – Order of the Hon'ble Supreme Court of India – Implemented in TANGEDCO – Cancellation - Orders – Issued.

- Ref: 1. From the Government/P&AR (N) Department, Letter No.13519/ N/ 2015-1, dated 23.07.2015.
2. (Per) CMD TANGEDCO Proceedings No.90 (SB), dated 25.05.2016.
3. From the Government/P&AR (N) Department, Letter (Ms) No.43/N/ 2015-3, dated 26.04.2016.

Following the instructions in Government's letter first cited, in compliance of the orders of Hon'ble Supreme Court of India dated 16.02.2015 in S.L.P.(C) No.31761/2013 fixing limitation on the period of suspension, certain guidelines have been issued to all the Competent Authorities in connection with considering the revocation of the officials who have been placed under suspension based on the DV&AC cases – vide Proceedings second cited. The Government, in its letter third cited, among other things, have clarified that the instructions already issued in Government's letter first cited are applicable only to the suspension cases arising out of departmental disciplinary inquiries pertaining to non-vigilance and / or any non-criminal cases, in view of the fact that the gravity of the Vigilance/Criminal cases is alarmingly more than that of the seriousness of the non-vigilance/non-criminal cases in which allegation of corruption is not dealt with.

2. Accordingly, the orders issued in (Per) CMD TANGEDCO Proceedings No.90 (SB), dated 25.05.2016 are hereby cancelled with immediate effect.

3. It is also instructed that if any revocation of suspension has been made in the suspension cases of the accused employees who involved in any of the DV&AC cases based on the said Proceedings dated 25.05.2016, the Competent Authorities or any higher authority to the Competent Authority, should review such revocation of suspension cases and appropriate orders passed immediately.

Contd..

4. Further, the instructions issued in Memo.No.10207/A18/A181/2012-1 (SB), dated 03.09.2012 are hereby restored, to deal with the cases of suspension arising out of "Trap and Arrest" and other Criminal cases.

5. The copy of Government's letter third cited is also enclosed for reference.

6. The receipt of this Memorandum should be acknowledged.

(BY ORDER OF THE CHAIRMAN-CUM-MANAGING DIRECTOR)

**R.BALAJI,
SECRETARY.**

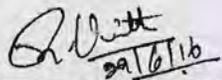
To

All Chief Engineers (w.e.).
All Chief Financial Controllers (w.e.).
The Chief Internal Audit Officer/Audit Branch (w.e.).
All Superintending Engineers (w.e.).

Copy to:

The Chairman-cum-Managing Director's Table (w.e.).
The Managing Director/TANTRANSCO (w.e.).
All Directors/TANGEDCO and TANTRANSCO (w.e.).
The Director General of Police/Vigilance/Chennai-2 (w.e.).
The Legal Adviser/TANGEDCO /Chennai-2 (w.e.).
All Deputy Secretaries/Secretariat Branch/Chennai-2 (w.e.).
All Under Secretaries/Secretariat Branch/Chennai-2 (w.e.).
The Chief Medical Officer/TANGEDCO Headquarters Dispensary/Chennai-2 (w.e.).
The Asst.Personnel Officer/Tamil Dev. – for publication in the Bulletin (w.e.) (2 copies).
The Assistant Personnel Officer/Headquarters/Adm.Branch (w.e.) (5 copies).
All Unit Personnel Officers/Headquarters (w.e.) (5 copies).
All Sections in Secretariat Branch/Chennai (w.e.).

:: TRUE COPY : FORWARDED : BY ORDER ::


SECTION OFFICER.



Personnel and Administrative
Reforms (N) Department,
Secretariat,
Chennai - 600 009.

தூர்முகி, சித்திரை - 13
திருவள்ளூர் ஆண்டு 2047

Letter (Ms) No.43 / N / 2015 - 3, dated 26.04.2016

From
Thiru. P.W.C. Davidar, I.A.S.,
Principal Secretary to Government

To
All Secretaries / Principal Secretaries to Government,
Departments of Secretariat
All Heads of Departments
All Boards / Corporations / Public Sector Undertakings

Sir / Madam,

Sub:- Limitation fixed on the period of suspension - Order of the Hon'ble Supreme Court of India in Ajay Kumar Choudhary Vs. Union of India through its Secretary & ANR in Civil Appeal No.1912 of 2015 (arising out of SLP (C) No.31761 of 2013) dated 16-02-2015 - Clarification - Regarding.

Ref:- 1. Government Letter No.13519 / N /2015-1, Personnel and Administrative Reforms (N) Department , dated 23-07-2015.
2. From the Engineer-in-Chief, WRD and Chief Engineer (General), Public Works Department, Chepauk, Chennai-05, Letter No.CII (3) / 450 / 2015-4; dated 04-11-2015.

In the letter 1st cited, the Departments of Secretariat and the Heads of Departments were requested to follow the directions ordered by the Hon'ble Supreme Court of India on the limitation in the period of suspension as three months based on a case-law in Ajay Kumar Choudhary Vs. Union of India through its Secretary & ANR in Civil Appeal No.1912 of 2015 (arising out of SLP (C) No.31761 of 2013) dated 16-02-2015.

(p.t.o.)

2. In this connection, it is clarified that in the said decision of the Supreme Court of India in the case-law indicated in the letter 1st cited, itself it has been among other things enlightened as given below:-

".....We are spurred to extrapolate the quintessence of the proviso of Section 167 (2) of the Cr.P.C.1973 to moderate suspension orders in cases of departmental / disciplinary inquiries also".....

3. It is observed from the above terms that if the charge memo / Charge sheet is not served in departmental disciplinary inquiries within a period of three months, the suspension should not extend beyond the said period. If the memorandum of charges is served, a reasoned order must be passed for the extension of suspension.

4. In this connection, the Government instructions issued already with regard to the suspension arising out of criminal cases, are once again extracted as below :-

(i) In Govt. Letter No.47685A/N/94-10, dated 05-01-1996, the grounds for keeping a Government servant under suspension on account of criminal cases / grave corruption charges pending against him, are, among other things, given there-under as follows :-

- (a) if the officers arrested red-handed in the act of demand and or acceptance of bribes are released from suspension and allowed to rejoin duty, the Government's objective of maintaining probity in public administration will be belittled;
- (b) it would be embarrassing to have a public servant on duty, who is facing trial in criminal court or a Tribunal / Departmental enquiry for grave charges which would not only affect the morale of others in service but also would act as a disincentive for the public servants who are committed to honest conduct in public service.
- (c) The High Court, Madras in a case law in D. Uthirakumaran Vs the Government of Tamil Nadu and another (1988 Writ Law Reporter p-229) has quoted an observation as given below :-

"The seriousness of the allegations and the nature of the allegations and the embarrassment faced by the Government and the necessity to keep the high morale of the public services could also be factors that could legitimately weigh with the Government in making the order of suspension."

- (d) The Supreme Court of India in a case law in R.P. Kanpur Vs. Union of India and another (1964 AIR Supreme Court p-787) has, held as given below :-

"on general principles therefore, the authority entitled to appoint a public servant would be entitled to suspend him pending a departmental enquiry into his conduct or pending a criminal proceeding, which may eventually result in a departmental enquiry against him."

- (ii) In addition to the above, detailed guidelines have already been issued in G.O.(Ms.) No.40, P.& A.R. (N) Department, dated 30.1.1996 to curtail prolonged suspension in departmental disciplinary cases. In this G.O. itself also, it has been clearly stated that the time limit prescribed therein, does not applicable to the criminal cases.

5. In view of the above settled policy of the Government for at least temporarily keeping away the corruption-charged public servants and / or the public servants charged on their moral-turpitude either on their official and / or private capacity, till they are exonerated of the grave charges, by way of keeping them under suspension from public service so as to encourage cleanliness in the effective delivery of public services to the general public, it is clarified that the instructions issued already in Govt. letter No.1351.9/N/2015-1 dated 23.7.2015 to the effect that the time limit of three months on suspension cases specified therein, are applicable only to the suspension cases arising out of departmental disciplinary inquiries pertaining to non-vigilance and / or any non-criminal cases, in view of the admitted fact that the gravity of the Vigilance / Criminal cases is alarmingly more, than that of the seriousness of the non-vigilance / non-criminal cases in which allegation of corruption is not dealt with.

6. It is also clarified that in the event of conviction in criminal case and / or grave corruption charges proved in any case, the competent authority may, by discretion, tend to impose any of the major penalties (dismissal / removal) against those accused officers concerned. Hence, in such cases, the suspension of those accused officers who have attained the age of superannuation but not permitted to retire and retained in service under Fundamental Rules 56 (1) (c) or similar such any rule equivalent to that rule applicable to Boards / Corporations / Public Sector Undertakings / Societies (as the case may be), may not be mechanically revoked by applying any time limit. The reason for the need to continue the suspension of such accused officers, is that major penalty (dismissal / removal)

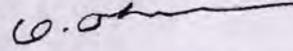
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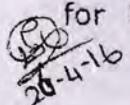
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could not be imposed against them, if their suspension is revoked and if they are permitted to retire without knowing the outcome of the criminal / grave corruption charges pending or contemplated, if any, against them.

7. It is also further instructed that if any revocation of suspension has been made in the suspension cases of the accused officers who involved in any of the vigilance / criminal cases based on the Government letter No.13519/N/2015, dated 23.7.2015, such revocation of suspension must be taken-up for immediate review by the competent authorities or any higher authority to the competent authority concerned and appropriate orders shall be passed immediately by duly taking into account of the grounds given under para-(4) and para-(5) above.

Yours faithfully,

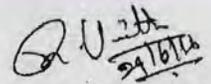


 for Principal Secretary to Government.
26-4-16

Copy to:-

The Secretary to Governor, Raj Bhavan, Chennai-22
The Additional Advocate General-V of Tamil Nadu, High Court Annex
Building, Chennai-104 (for information) (By name cover)
The Law Dept., Chennai-09.
The Vigilance Commission, Chennai -09.
The Directorate of Vigilance and Anti-Corruption, Chennai-28.
All Commissioners of Disciplinary Proceedings
All Sections in P&AR Dept., Chennai-09.
S.F. / S.C.

:: TRUE COPY ::


SECTION OFFICER.