



WEB COPY

WA No. 3015 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-08-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE KRISHNASWAMY GOVINDARAJAN

**WA No. 3015 of 2023 AND
CMP NO. 24981 OF 2023**

The Director Of Medical Education (FAC)
Kilpauk, Chennai-600 010

..Appellant

Vs

1. K. Anandhajothi
S/o. P.Kolanchi, Administrative Officer,
Nagapattinam Medical College Hospital,
Nagapattinam.
2. S Ramesh Kumar
Administrative Officer, (On deputation as
Senior Personal Assistant to the Honourable
Minister of health and Family Welfare
Department) Now Promoted as Deputy
Director (Administration), O/o. The Director of
Indian Medicine and Homeopathy, Chennai
3. S. Praburam S/o.P.Srinivasan
Administrative Officer, Institute of Mental
Health, Kilpauk, Chennai 600 010

(R3 IS IMPEADED, VIDE ORDER OF
COURT DATED 30/01/2024 MADE IN
CMP.NO.1933 OF 2024 IN WA.NO.3015 OF
2023 (RMDJ AND MSQJ)

..Respondents



WA No. 3015 of 2023

Prayer in WA No. 3015 of 2023 : Writ Appeal under Clause XV of the Letters Patent to set aside the order dated 26-07-2023 made in WP.No.10484/2023.

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For Appellant(s): Ms.Y.Kavitha
Additional Government Pleader

For Respondent(s): Mr.Stanley Raja Singh
for Mr.G.Bala – for R1

No appearance – for R2

Mr.J.Jayan – for R2

Judgment

(Judgment of the Court was delivered by S.M.Subramaniam J.)

Under assail is the writ order dated 26.07.2023 passed in W.P.No.10484 of 2023. The Director of Medical Education preferred the present writ appeal under Clause XV of the Letters Patent.

2. Learned Additional Government Pleader appearing on behalf of the appellant would mainly contend that departmental disciplinary proceedings are initiated and a charge memo was issued under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules against the first respondent vide proceedings dated 18.02.2023. Due to pendency of the 17(b) charges, the name of the first respondent was not considered for promotion to the post of Deputy Director (Administration) for the year 2022-23. As per the provisions of Tamil Nadu Government Servants (Conditions of Service) Rules, conviction



under Rule 17(b) charges is a bar for promotion. However, the said provision has not been considered by the Writ Court, which resulted in filing of the present writ appeal.

3. Learned counsel for the first respondent would oppose by stating that charges are framed with an ulterior motive and the allegations are false. In order to deny promotion to the first respondent, 17(b) charges are framed hurriedly and his name was deferred. Thus, he has raised an allegation of malafide, which was considered by the Writ Court. Therefore, the present writ appeal is to be rejected.

4. Learned counsel for the first respondent would further contend that the alleged appointment order as per the charge memo had not been issued by the first respondent. The other officials responsible and accountable for issuing of appointment order without following the rule of reservation are left out and no action was taken against them. Thus, the present writ appeal is to be rejected.

5. This Court has considered the rival submissions made between the parties to the lis.



6. The relief sought for in the writ petition filed by the first respondent is to quash the charge memo dated 18.02.2023 and for a direction to promote him to the post of Deputy Director (Administration).

7. Regarding the first limb of relief sought for in the writ petition to quash the charge memo, the governing principles are settled by the Constitutional Courts. They are,

- (a) Charge memo *per se* would not provide a cause for institution of writ proceedings.
- (b) Adjudication of merits in respect of a charge memo is impermissible in writ proceedings.
- (c) Charge memo can be set aside by the Courts only on the limited grounds of jurisdiction and malafide.
- (d) Even in case of raising allegation of malafide, the person against whom such malafide is alleged must be impleaded as party respondent in the writ proceedings in personal capacity.
- (e) Allegation of malafide are to be established beyond any pale of doubt. Certain factual inferences drawn would be insufficient to hold the ground of malafide as proven.



8. An employee, on receipt of charge memorandum is entitled for an opportunity to submit his explanations. If the disciplinary authority orders for an enquiry, then the delinquent officer shall be permitted to raise all the factual and legal grounds before the enquiry officer along with documents and evidences available with him. If witnesses are examined, the delinquent officer is entitled to cross examine witnesses. All such opportunities contemplated under the Discipline and Appeal Rules are to be afforded to the delinquent officer during the course of enquiry.

9. In the context of the above principles, the facts of the present case are to be examined. A perusal of the charge memo would show that the allegations raised against the first respondent is that he has not followed the recruitment rules while handling the files. In Annexure-2, the charge memo provides the statement of imputations. Annexure-3 provides the documents relied on by the disciplinary authority to establish the allegations. Annexure-4 would show eight witnesses have been cited. Thus, there is no infirmity in respect of the procedures followed for issuance of charge memo under Rule 17(b) of the Discipline and Appeal Rules.

10. Regarding the allegation of motive or malafide, this Court is of the considered view that broader allegation raised in the writ petition would



be insufficient to quash the charge memo. Learned counsel for the respondent has narrated the sequence of incidents that led to appointment of candidates to certain public posts. It would not be sufficient to hold that the charge memo has been issued with malafide. Factual inferences raised would be premature in the present case since such nature of allegations are to be established only during the course of enquiry. High Court, in exercise of the powers of judicial review under Article 226 of the Constitution of India is not expected to adjudicate the disputed issues relating to allegations raised in the charge memo. Adjudication of disputed issues relating to charges would fall beyond the realm of the powers of judicial review. The nature of allegations in the charge memo require an enquiry, since the documents in original are to be perused, witnesses are to be examined and cross examined to cull out the truth. Only thereafter, the authorities will be in a position to form a final opinion. High Court, merely based on the pleadings by way of an affidavit, cannot form an opinion regarding the allegation raised in the charge memo in a departmental disciplinary proceedings. In the present case, the charges are disputed by the first respondent. That being so, departmental enquiry is inevitable and it is to be conducted by affording an opportunity to all the parties.



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11. Regarding the second limb of relief sought for in the writ petition seeking a direction for promotion to the post of Deputy Director (Administration), the facts placed before this Court would show that panel of the year 2022-23 was drawn and the approved panel was published on 13.03.2023. The crucial date for promotion was 01.09.2022. Before publishing the approved panel on 13.03.2023, charge memo under Rule 17(b) of the Discipline and Appeal Rules was issued vide proceedings dated 18.02.2023. Thus, the name of the first respondent was deferred and not included in the panel of the year 2023.

12. In the context of Section 7(1) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, Schedule XII Part 'A' (I) contemplates the procedure for preparation of approved list. Clause II deals with consideration of a member for inclusion in the approved list. Sub-clause VIII stipulates that "pendency of charges framed under Rule 17(b) of the Tamil Nadu Civil Servants (Discipline and Appeal) Rules against a member of service shall be a bar for inclusion of his name in the approved list.

13. In view of the fact that the charge memo has been issued against against the first respondent under Rule 17(b) of Discipline and Appeal



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Rules, his name was not included in the approved list. In the opinion of this Court, action of the appellant is in consonance with the provisions of the Tamil Nadu Government Servants (Conditions of Service) Act. The appellants may proceed with the departmental disciplinary enquiry and conclude the same as expeditiously as possible on its own merits.

14. In view of the above discussions, this Court has arrived at the irresistible conclusion that the writ order need not be sustained. Consequently, the impugned writ order dated 26.07.2023 made in WP.No.10484 of 2023. is set aside and the writ appeal stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S.,J.) (K.G.R.,J.)
20-08-2026

Index: Yes
Speaking order
Neutral Citation: Yes

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**S.M.SUBRAMANIAM J.
AND
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