

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2016

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THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.33503 of 2016

G.Dhanalakshmi ... Petitioner

vs.

1.The Director of Public Health
and Preventive Medicine,
Chennai-6.

2.The Deputy Director of Health
Services,
Dharmapuri.

.... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of certiorarified mandamus to call for the records on the file of the respondents 2 and 1 in connection with the orders passed by them in R.No. 6080/E1/2015 dated 30.10.15 and R.No. 100378/DA/15/ S4 dated 10.06.16 respectively and quash the same and direct the respondents to reinstate the petitioner in service as Village Health Nurse, Government Primary Health Centre, Solaikottai, D-Thuringipatti, Dharmapuri District with all monetary and service benefits.

For Petitioner : Mr.R.Singaravelan, SC
for Ms.M.Srividhya

For Respondents : Mr.S.Gunasekaran,
Addl. Govt. Pleader

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has come up with the present writ petition, challenging the orders of the respondents 2 and 1 in R.No. 6080/E1/2015 dated 30.10.15 and R.No. 100378/DA/15/ S4 dated 10.06.16 respectively and to direct the respondents to

reinstate her into service as Village Health Nurse, Government Primary Health Centre, Solaikottai, D-Thurinjipatti, Dharmapuri District, with all monetary and service benefits.

3. It is the case of the petitioner that presently she is working as Village Health Nurse in Government Primary Health Centre, Solaikottai Block Main PHC, D.Thurinjipatti, Dharmapuri District. While so, the Block Development Officer has sent a notice dated 19.9.2015 alleging that on inspection of the Government Primary Health Centre at Solaikottai, between 1.4.2014 and 31.8.2015, it was found that pecuniary benefits have been given to many persons, who are not eligible for such benefits. Further, by the said notice, the petitioner was called upon to collect the amounts from those persons and deposit the same in the Treasury and submit the original receipts. Since the petitioner has no role to play in the disbursement of such benefits, she has advised the seven persons to deposit the amount to the Treasury. The said persons had also deposited a sum of Rs.3,76,000/- to the treasury. However, when the petitioner was on medical leave, the second respondent passed an order dated 30.10.2015 by placing her under suspension, under Rule 17(e) of the Tamil Nadu Civil Services (D and A) Rules. Challenging the same, the petitioner filed a writ petition before this Court in W.P.No.39626 of 2015 and this Court, by an order dated 4.5.2016 directed the petitioner to send copies of the representations dated 22.2.2016 and 28.4.2014 along with a copy of this order to the respondent therein and on receipt of the same, the respondent therein was directed to consider the same and pass appropriate orders on merits and in accordance with law. On the basis of the said directions, the petitioner sent a copy of the representation and the same was rejected by order dated 10.6.2016. Challenging the same, the petitioner has come up with the present writ petition.

4. Today, when the matter was taken up for consideration, the learned senior counsel appearing for the petitioner, by placing reliance on two judgments reported in 1991 Writ L.R. 273 [Ambigapathy, P.S. Vs. The Director of Public Health & Preventive Medicine) and 2015 (2) SCALES 432 [Ajay Kumar Choudhry Vs. Union of India], submitted that the currency of suspension order should not be extended beyond three months, if within this period, the Memorandum of charges / charge sheet is not served on the delinquent official and if charge memo / sheet is served, a reasoned order must be passed for extension of the suspension. In the instant case, the petitioner has been placed under suspension for a long period without any reason. Thus, the learned senior counsel for the petitioner sought for quashing the impugned order and for a direction to the respondents to permit the petitioner to join duty.

5. On the other hand, learned Additional Government Pleader, who has taken notice on behalf of the respondents, vehemently opposed to entertain the prayer in the writ petition stating that an enquiry is pending against the petitioner and hence, the order of suspension cannot be revoked. Thus, he sought for dismissal of the writ petition.

6. Keeping the submissions made on either side, I have carefully gone through the entire materials available on record.

7. I am of the opinion, the issue involved in this case has to be decided only based on the decision of the Hon'ble Supreme Court in 2015 (2) SCALES 432 [Ajay Kumar Choudhry Vs. Union of India], wherein it has been held that the currency of suspension order should not be extended beyond three months, if within this period, the Memorandum of charges / charge sheet is not served on the delinquent official and if charge memo / sheet is served, a reasoned order must be passed for extension of the suspension. Subsequently, the Government of Tamil Nadu has also issued instructions in Letter No.13519/N/2016-1, P & AR (Per.N) Dept, dated 23.07.2015, to all Principal Secretaries to Government, Department of Secretariat and Head of Departments to follow the directions of the Hon'b'le Supreme Court on the limitation period of suspension in letter and spirit.

8. Even in the instant case, the facts of the case would show that the respondents have not passed any reasoned order for extension of suspension in respect of the petitioner herein. The petitioner cannot be kept under prolonged suspension. Further, in the case Ambigapathy, P.S. Vs. The Director of Public Health & Preventive Medicine, reported in 1991 Writ L.R. 273, a Division Bench of this Court has held that the prolonged suspension is unreasonable and without any justification. Following the above said decision, I am of the opinion, the petitioner herein is entitled to the relief sought for in the writ petition and the impugned orders are liable to be quashed.

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9. Accordingly, the writ petition is allowed and the impugned orders are quashed. The respondents are directed to reinstate the petitioner in any non-sensitive post at a far away place forthwith. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

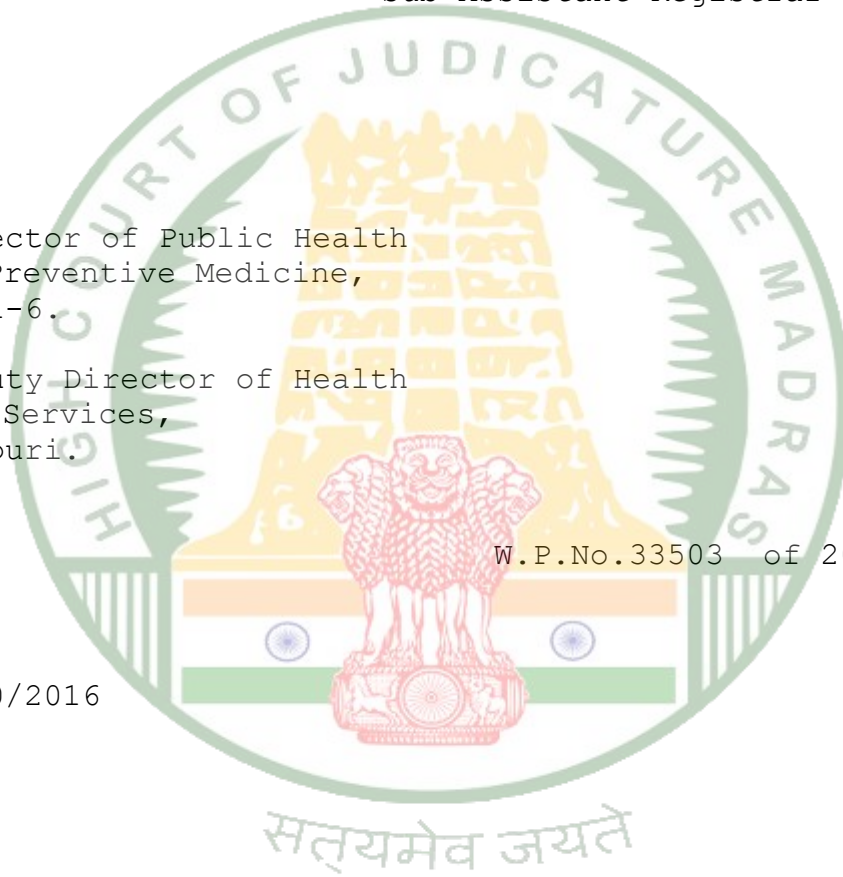
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To

- 1.The Director of Public Health
and Preventive Medicine,
Chennai-6.
- 2.The Deputy Director of Health
Services,
Dharmapuri.

W.P.No.33503 of 2016

KS (CO)
MD : 24/10/2016



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