

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2017

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.15141 of 2017

K.Veerakumar

... Petitioner

Vs.

1. The Director of Public Health & Preventive Medicine,
DMS Campus, Teynampet, Chennai - 600 006.

2. The Deputy Director of Health Services,
Thiruvavur.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents to consider the representation submitted by the petitioner dated 02/11/2016 and to revoke the order of suspension passed in R.No.2031/A1/2015 dated 31.03.2015 and to reinstate the petitioner into service with consequential benefits within a time frame to be fixed by this Hon'ble Court.

For Petitioner : Mr.G.Sankaran

For Respondents: Mr.P.Sanjay Gandhi
Additional Government Pleader

ORDER

This writ petition has been filed questioning the correctness of the impugned suspension order, whereby the petitioner has been kept under prolonged suspension since 17.03.2015, on the ground that when the petitioner was attending one review meeting in Alangudi Primary Health Centre, one Tmt.R.Indira, Village Health Nurse (VHN), who was also working in Alangudi Primary Health Centre, created commotion with the Block Medical Officer as well as the District Programme Manager. In this process, when the Block Medical Officer enquired Tmt.R.Indira for non-submission of records, she shouted at the Block Medical Officer stating that she did not receive any salary for the month of February 2015. In the said melee, the petitioner, being the Assistant, also explained the reason for

the delay in processing the salary. But the said Tmt.R.Indira abused the petitioner in filthy language and attacked him with her handbag. However, the Block Medical Officer intervened and stopped the incident from getting into further awkward situation. In this connection, the Block Medical Officer had given a police complaint against the said Tmt.R.Indira. Followed by this, the petitioner also lodged a complaint against her separately. Thereafter, the said Tmt.R.Indira had also given a complaint as if the petitioner attacked her. Based on that, the petitioner was placed under suspension citing the registration of police complaint by Tmt.R.Indira, Village Health Nurse. In spite of repeated representations, till date, the respondents have not come forward to review or revoke the suspension order. Moreover, the respondents are paying only 50% of subsistence allowance. But as per Rules, if it is more than nine months, it should be 75%. The said mandatory requirement also has not been considered in the present case. Therefore, it is a fit case where the impugned order of prolonged suspension should be reviewed, it was pleaded.

2. The learned Additional Government Pleader, taking notice on behalf of the respondents, was unable to give a suitable reply to the law laid down by the Apex Court in the case of Ajay Kumar Choudhry v. Union of India, 2015 (3) CTC 119, in which the Apex Court has clearly held that no prolonged suspension shall be allowed to stay against a government servant, if no reasoned order is passed for extension of the suspension.

3. In the present case, although a charge memo has been issued to the petitioner, no reasoned order has been passed for extension of the suspension. Moreover, it is only a small ordinary incident that took place between Tmt.R.Indira and the petitioner during the review meeting held in Alangudi Primary Health Centre. Taking into account only the complaint given by the said Tmt.R.Indira, ignoring the complaint given by the petitioner against her, the order of suspension was passed against the petitioner. But till date, it is not known why the respondents have not considered the revocation of the same, whereas he has been unnecessarily paid with 50% of salary as subsistence allowance. Moreover, once the order of suspension has not been revoked or re-visited within nine months time, he should have been paid with the subsistence allowance 75 % of his monthly pay as per norms. Even this mandatory procedure has not been followed. Therefore, in the light of the ratio laid down by the Apex Court in Ajay Kumar Choudhary's case, although a charge memo has been issued, considering the trivial allegation made against the petitioner, the prolonged suspension is liable to be interfered with. Hence, in the case on hand, the impugned order of suspension is set aside and the respondents are directed to

reinstate the petitioner into service forthwith. The writ petition stands allowed. No costs.

-s/d-
Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

maya/ss

To

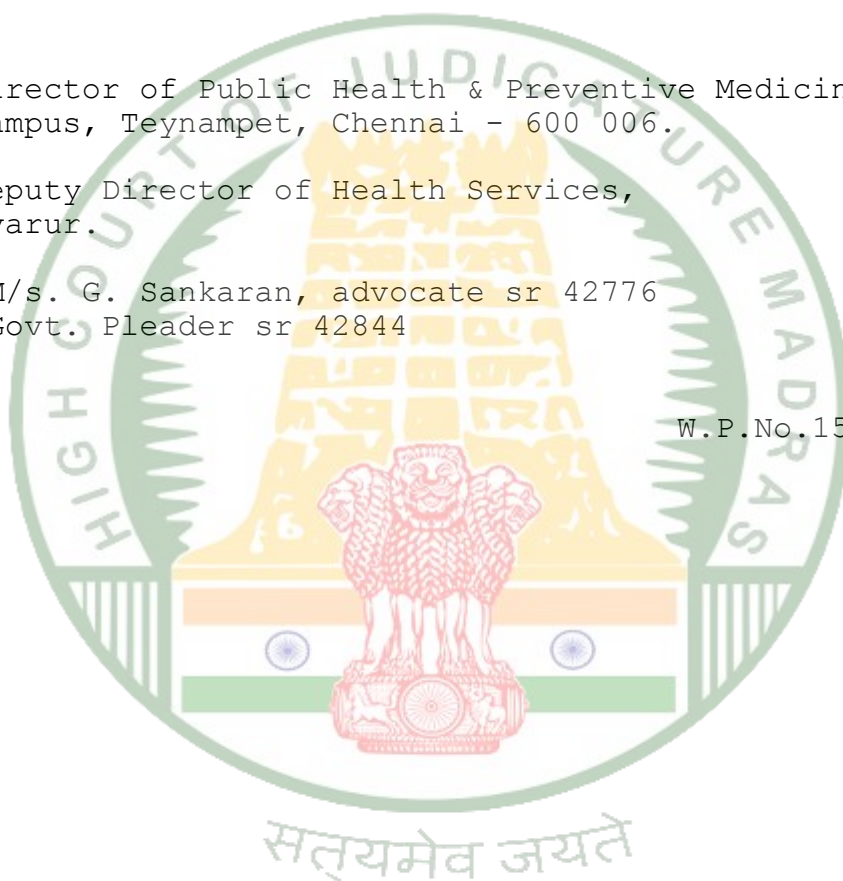
1. The Director of Public Health & Preventive Medicine,
DMS Campus, Teynampet, Chennai - 600 006.
2. The Deputy Director of Health Services,
Thiruvarur.

+1 CC to M/s. G. Sankaran, advocate sr 42776

+1 CC to Govt. Pleader sr 42844

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