



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.07.2017

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P(MD)No.13524 of 2017

and

W.M.P(MD)No.10584 of 2017

S.Balaji

... Petitioner

vs.

1.The Gandhigram Institute of Rural
Health and Family Welfare Trust,
Rep by its Chairman, Soundaram Nagar,
Gandhigram Post, Dindigul District 624 302.

2.The Director,
The Gandhigram Institute of Rural Health &
Family Welfare Trust, Soundaram Nagar,
Gandhigram Post, Dindigul District 624 302.

3.S.Seethalakshmi
Director,
The Gandhigram Institute of Rural Health &
Family Welfare Trust, Soundaram Nagar,
Gandhigram Post,
Dindigul District 624 302.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings issued by the second respondent in No.0494/2017 dated 17.07.2017 and quash the same and consequently direct the respondents to regularize the suspension period of the petitioner and pay other benefits.

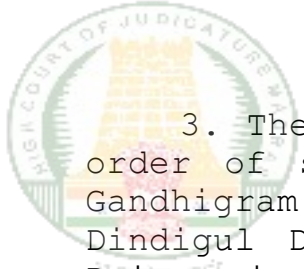
For Petitioner

: Mr.C.Jeganathan
for M/s.Veera Associates

ORDER

By consent of both sides, this writ petition itself is taken up for final disposal.

2.Heard the learned counsel for the petitioner.

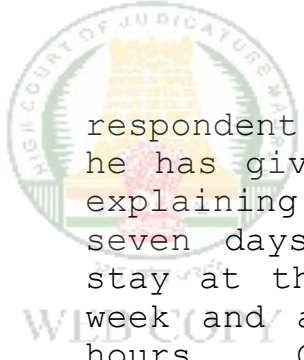


3. The present writ petition is directed against the impugned order of suspension dated 17.07.2017 issued by the Director of Gandhigram Institute of Rural Health and Family Welfare Trust, Dindigul District, placing the petitioner, who is serving as a Driver in the second respondent Institute, under suspension in exercise of power conferred under Sub Rule (1) of Rules 10 of the Gandhigram Institute of Rural Health & Family Welfare Trust, Employees (Discipline and Appeal) Rules, 2003.

4. Assailing the impugned order, the learned counsel appearing for the petitioner submitted that while the petitioner was discharging his duty as a Driver without any adverse remarks, he made a request to the respondents to allot a staff quarters. Accepting the same, he was allotted to staff quarters No.195/1-B on 29.05.2013. After the said allotment, he has been staying in the said quarters.

5. In the mean while, the second respondent was appointed as Director In-Charge of the Gandhigram Institute of Rural Health and Family Welfare Trust on 11.07.2015 by the Chairman of the Gandhigram Institute of Rural Health and Family Welfare Trust/the first respondent. The said appointment was questioned by the Staff Welfare Association of Gandhigram Institute of Rural Health and Family Welfare Trust before this Court on the ground that the second respondent failed to pass prescribed qualification as per the Rule. The said W.P.(MD)Nos.14822 and 12758 of 2016 were dismissed by this Court on 21.02.2017, against which, writ appeals in W.A.(MD)Nos.307 and 308 of 2017 were filed by the same Association. Only to wreck vengeance, as the petitioner is a member of Staff Association holding a post of Vice Chairman, an order was passed, citing his qualification, shifting his quarters from B type to D type on flimsy grounds. Therefore, the petitioner has again challenged the said order in another Writ Petition in W.P.(MD)No.16468 of 2016, in which, stay has been granted on 03.11.2016 and by virtue of the said order, he was allowed to continue. In view of the above frequent challenge made by the petitioner, the 2nd respondent has issued a charge memo calling upon an explanation. The petitioner also, on receipt of the charge memo, submitted his detailed explanation denying all the charges.

6. In the meanwhile, the 2nd respondent has been awarded with a project called Longitudinal Ageing Study in India (LASI) by the International Institute for Population Sciences. For implementing the said project work, the second respondent has appointed 70 employees on temporary basis and all of them have to work at different places such as Dindigul, Coimbatore, Tirunelveli, Kanyakumari, Thoothukudi, etc., and in that process, he also engaged four vehicles along with Drivers to be used by the said employees. The second respondent has chosen to spare a vehicle of <https://hcservices.rajasthan.gov.in/hcservices/> and the petitioner was deputed to drive the vehicle with a malafide intention, only to harass him, the second



respondent has issued the present order of suspension. Therefore, he has given a representation to the 2nd respondent on 17.07.2017 explaining all the difficulties that he has faced on the first seven days with a request to provide suitable accommodation to stay at the working place and also to have a holiday once in a week and also to restrict the working hours from continuous 15 hours. Only after the receipt of the representation dated 17.07.2017, the second respondent has issued a proceedings increasing the daily allowance to Rs.400/- from Rs.100/-, without even restricting the working hours. Therefore, he has given another representation and as he is unable to work continuously, the present suspension has been issued and the same is liable to be quashed.

7. This Court is unable to entertain the writ petition, since there is no merits.

8. A perusal of the impugned order dated 17.07.2017 shows that the petitioner is not obeying the office orders and not attending the Institute and therefore, there is every justification in placing the petitioner under suspension for evading his legitimate duty. This is also confirmed with his own representation dated 17.07.2017, wherein, he has taken a stand that he is unable to work continuously. Since the allegation made against the petitioner are all serious in nature, as the petitioner rushed to this Court, without making any representation to the respondents to reconsider the review or revoke the suspension order, this Court treating the writ petition, as premature one, is not inclined to entertain the writ petition.

9. It is not known how the allegations made by the petitioner that the second respondent has passed the suspension order with an afterthought or with malafide intention and whether the petitioner suffered with charge memo, issued earlier to him, has come to this Court. In any event, if the petitioner's charge memo is taken up expeditiously by the Department, the petitioner would be satisfied. The reason is that if the petitioner is able to establish his innocence quickly, he will be able to get rid of the allegations and he will be able to work continuously. On the other hand, if the Institute is able to substantiate the allegations, final decision can be taken against the petitioner. Therefore, considering the logger head created by the petitioner, the respondents are directed to expedite the departmental proceedings on the basis of the charge memo issued against the petitioner.



10. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CSII)

/True Copy/

Sub-Assistant Registrar

To

1. The Chairman,
The Gandhigram Institute of Rural
Health and Family Welfare Trust,
Soundaram Nagar,
Gandhigram Post,
Dindigul District 624 302.

2. The Director,
The Gandhigram Institute of Rural Health &
Family Welfare Trust,
Soundaram Nagar,
Gandhigram Post,
Dindigul District 624 302.

+One cc to M/s. Veera Associates, Advocate, SR.No.67228

Mrn/RR

RL/4C/4P/GT/SAR2/31/10/2017

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21.07.2017