

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 14.12.2018

CORAM :

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.22100 of 2013

N.Mani

... Petitioner

1.The Director of Medical Education,
Kilpauk, Chennai - 10.01.2001

2.The Dean,
Government Kilpauk Medical College Hospital,
Kilpauk, Chennai - 10.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the proceedings of the Dean, Govt., Kilpauk Medical College Hospital, Chennai - 10 in D.Dis.No.16900/E2(1)/1988 dated:16/06/2000 on quash the same in view of the acquittal of the Petitioner in the Criminal case as the impugned removal order is passed based on conviction of Criminal case, and direct the respondents to pay all services and all consequential benefits with continuity of service to the petitioner herein.

For Petitioner : M/s.G.Sridevi

For Respondents : Mr.P.Raja
Government Advocate for R1 & R2

O R D E R

The petitioner was working as Ambulance Driver in the Government Kilpauk Medical College Hospital, Kilpauk, Chennai. The petitioner was convicted in a criminal case under Sections 381,419,467,478,471 r/w 468,420 IPC.

2. The Additional Sessions Judge, Fast Track Court, Chennai convicted the petitioner. An order of removal was passed against the petitioner only on the basis of the conviction. The removal order reads as under:-

"Thiru.N.Mani, a candidate sponsored by the District Employment Officer (T.P.), Chennai - 35 was Temporarily appointed as Driver in this hospital and

joined duty in this hospital on the Fore Noon of 24.11.86.

On verification of the Educational certificate of the above individual, it is informed by the District Educational Officer, Saidapet, Chennai-15 that the educational certificate produced by Thiru.Mani for having passed VII std. is bogus.

On the basis off the complaints received from this office, Thiru.Mani was arrested by the police on 21.02.1989 at 18 hours and produced before the Learned Additional Chief Metropolitan Magistrate Egmore on the Afternoon of 22.2.89 and he was remanded under custody for 15 days.

Under sub Rule (e) of Rule 17 of the Tamilnadu Civil Services Rules, Thiru.N.Mani was placed under suspension with effect from 2.11.97 F.N.

Departmental enquiry was initiated and in the enquiry officers findings it is recorded that, since the matter is pending in the Court and also as desired by the individual, the mattter may be decided after the receipt of the court orders.

In the judgement order, issued by the Additional Chief Metropolitan Magistrate Court dated 17.5.99 is confirmed that the charges framed against the individual for the production of bogus Educational is proved beyond doubt and punishment was imposed to him for 2 years imprisonment and fine of Rs.5000/-.

The matter was informed to the Director of Medical Education, As per the instruction of the Director of Medical Education, action was initiatted under rule 17C (1) of Tamilnadu Civil Services (Discipline and Appeal) rules.

The individual has submitted his reply on 31.10.99 with a copy of stay order dated 10.06.99 issued by the III Additional Judge Incharge of Principal Sessions Court, Chennai.

The stay order was issued only to suspend the sentence of imprisonment imposed by the Additional Chief Metropolitan Magistrate, Chennai-8.

Therefore, the Dean is hereby ordered that, as per the judgement of the Additional Chief Metropolitan Magistrate, Chennai-8 Since, Thiru.N.Mani, Ambuland Driver under suspension has produced the bogus Educational Certificate and it is proved in the Court, as per the Govt. Letter No.126 P.&A A.R. dated 26.04.85 under Rule 17C of Tamil Nadu Civil Services (Discipline and Appeal) rules, he is removed from service with immediate effect."

3. The petitioner thereafter filed a revision petition in

this Court. and this Court by an order dated 26.07.2011 acquitted the petitioner. It transpires that no further disciplinary proceedings were initiated after the order of the acquittal. The dismissal of the petitioner merely on the ground of the conviction on the trial Court cannot be accepted in the light of the fact that the petitioner stands now acquitted. The Authorities had to initiate a fresh enquiry proceedings. The petitioner already attained superannuation. The respondents if so advised can initiate fresh enquiry against the petitioner. The enquiry if initiated should be completed within three months from the date of receipt of a copy of this order. In case, the Department decides not to initiate fresh proceedings, then terminal benefits of the petitioner should be settled within a period of four months from the date of receipt of a copy of this order.

4. The writ petition is disposed of with the above terms. No Costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1.The Director of Medical Education,
Kilpauk, Chennai - 10.01.2001

2.The Dean,
Government Kilpauk Medical College Hospital,
Kilpauk, Chennai - 10.

+1cc to Mr.G.Sridevi, Advocate, S.R.No.87125

+1cc to the Government Pleader, S.R.No.87431

W.P.No. 22100 of 2013

SJ(CO)

GSP(18/12/2018)

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