

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.06.2018

CORAM :

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P.No.25816 of 2006

Dr.M.Indira

.. Petitioner

Vs.

1.The Director of Public Health
and Preventive Medicine,
Chennai - 600 006.

2.The Deputy Director of Health Services,
Sankarankoil, Tirunelveli District. ..Respondents

Prayer: Writ Petition filed under Article 226 of the
Constitution of India, praying to issue a Writ of Certiorari, to
call for the records relating to the impugned order of the first
respondent in R.No.31770/PHC/9/2006 dated 27-07-2006 and quash
the same.

For Petitioner : Mr.P.Rajendran

For Respondents : Mr.R.Govindasamy
Special Government Pleader

ORDER

The petitioner filed this writ petition challenging the
recovery order dated 27.07.2006.

2. The case of the petitioner is as follows:

The petitioner was working as a Medical Officer at the
Primary Health Centre, Kalingapatti. She was put in additional
charge of the Primary Health Centre, Kalingapatti by proceedings
of Deputy Director of Health Services, Sankarankoil, the
second respondent vide order dated 17.01.2005. While she was
working as Medical Officer at Primary Health Centre,
Kuruvikulam, there was misappropriation of amount of
Rs.3,31,880/- for which the second respondent made a complaint
before the Law Enforcing Agency. After registration of the
criminal case against the officials, the Law Enforcing Officer
filed the charge sheet in which the name of the petitioner was
not found as accused. However, departmental proceedings were

initiated against the petitioner. Apart from the departmental proceedings, the first respondent passed an impugned order fixing the responsibilities against the petitioner, as if, the petitioner failed to supervise. Due to her carelessness, negligence and deficiency in rendering her services, there was a huge loss to the tune of Rs.3,31,880/-. There was a Special Audit Report for the amount of Rs.3,31,880/- for the period from 01.04.2000 to 31.03.2006. After examining the petitioner's evidence, the first respondent passed an impugned order fixing the liability against the petitioner and ordered for recovery to the tune of Rs.2,28,180/-. Against which the present writ petition is filed.

3. Learned counsel for the petitioner submits that the petitioner was initially posted as additional in charge in the Primary Health Centre, Kalingapatti. Thereafter the petitioner was working as a Medical Officer at Primary Health Centre, Kuruvikulam from 19.01.2005 to 07.02.2005 and 23.05.2005 to 31.05.2006. Initially, the petitioner herself made a complaint on 01.03.2006 against the officials for misappropriation of the amount. Based on the complaint on some officials, namely S.Leelavathy and Vinobhaji, they were placed under suspension and departmental proceedings were initiated. Thereafter, the second respondent made a complaint to the Law Enforcing Agency about the person who forged the petitioner's signatures. Therefore, the petitioner has not misappropriated any amount. Apart from the above, disciplinary proceedings were initiated against the petitioner and the petitioner was imposed with the punishment of stoppage of increment for a period of one year without cumulative effect.

4. Apart from the punishment imposed by the authority, the first respondent also ordered recovery order against the petitioner to the tune of Rs.2,28,180/- is amount to double payment.

5. Learned counsel for the respondent submits that initially, the petitioner was incharge of the Primary Health Centre, Kalingapatti. Thereafter the petitioner was working as a Medical Officer at Primary Health Centre, Kuruvikulam. She is a Drawing and Disbursing Officer for the GPF amount and personally held responsible for maintaining the books of accounts. Without proper verification, their staff members made a huge loss to the tune of Rs.3,31,880/-. Merely filing of criminal case against staffs will not entitle the petitioner for her lapses on disbursing the GPF amount and the misappropriation by their staff members under her control.

6. After receiving the audit report and after giving the full opportunity to the petitioner, the recovery order was passed. In order to recover the loss to the exchequer, the recovery order was passed to the tune of Rs.2,28,180/-, though the total loss is Rs.3,31,880/-. However, the recovery order is passed by fixing the responsibility against the petitioner. Accordingly, the respondent prays for dismissal of the writ petition.

7. On a perusal of the impugned order there was a special audit report on the amounts of the Primary Health Centre. Prior thereto, the petitioner was examined on 05.05.2006 and after giving an opportunity to the petitioner, the impugned order came to be passed against the petitioner and also against one Mr.D.Veerasingam, Dr.P.Subramanian, Dr.T.Alagesan, Dr.M.Indira. They were fixed with the responsibilities for the lapse of amount to the tune of Rs.3,31,880/-. Merely, because of the criminal case not filed, it will not amount to give clean chit to the petitioner. However, the respondents should take certain disciplinary action on those who were not properly maintained the accounts for disbursing the GPF funds.

8. Accordingly, the respondent fixed the responsibilities against the petitioner and ordered recovery of Rs.2,28,280/- and stoppage of increment for a period of one year without cumulative effect. The punishment imposed by the respondent for the staff members will not cover the remaining loss from the petitioner. I do not find any illegality in the impugned order. Though the petitioner has given representation on 01.03.2018, the allegation against the petitioner is from 2002 to 2006. Mere representation after a lapse of 5 years, will not wipe out the petitioner's responsibilities for disbursing the GPF amounts to the staffs.

9. Accordingly, this writ petition is dismissed. No costs.

msv

Sd/-

Assistant Registrar(CS IX)

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Sub Assistant Registrar

To

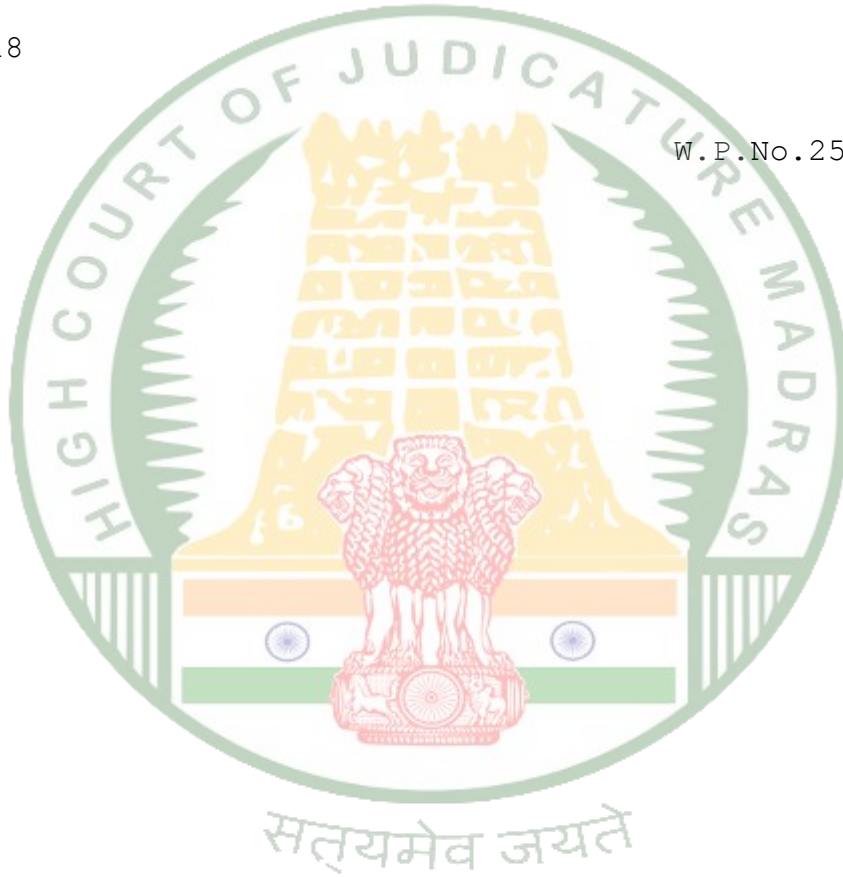
1.The Director of Public Health
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2.The Deputy Director of Health Services,
Sankarankoil, Tirunelveli District.

+lcc to Mr.P.Rajendran, Advocate Sr.No.38791

SSI(CO)
sm:3.7.2018

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