

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.39514 of 2006

V.Karunanidhi

... Petitioner

Vs.

1.The Deputy Director of Fire and Rescue Services,
Western Range,
Coimbatore.

2.The Divisional Fire and Rescue Services Officer,
Salem. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the orders in [1] O.Mu.No.1758/B1/2005 dated 24.4.2006 of the second respondent; [2] S.O.No.161/2006 [Na.Ka.No.1758/B1/2005] dated 04.05.2006 of the second respondent; and [3] S.O.No.177/2006 [Pa.Mu.No.4320/B1/2006] dated 09.06.2006 of the first respondent, quash the same and issue consequential directions to the respondents to refund the amount recovered if any from the petitioner with 18% interest per annum.

For Petitioner : Mr.M.Ravi

For Respondents: Mr.K.Ravikumar
Additional Government Pleader

O R D E R

The writ petition has been filed seeking issuance of Writ of Certiorarified Mandamus calling for the records relating to the orders in O.Mu.No.1758/B1/2005 dated 24.4.2006 of the second respondent; S.O.No.161/2006 [Na.Ka.No.1758/B1/2005] dated 04.05.2006 of the second respondent; and S.O.No.177/2006 [Pa.Mu.No.4320/B1/2006] dated 09.06.2006 of the first respondent, to quash the same and to issue consequential directions to the respondents to refund the amount recovered, if any, from the petitioner with 18% interest per annum.

2.The case of the petitioner is that disciplinary proceedings under Rule 17(b) of the Tamil Nadu Civil Services (D & A) Rules were initiated against him by the second respondent and charge memo was issued for the alleged false claim of Rs.35,498/- by submitting bogus medical certificates and bills thereby cheating the Government. The petitioner submitted his explanation dated 22.11.2005 denying the charges. Enquiry Officer was appointed for conducting enquiry and the Enquiry Officer submitted his report dated 13.03.2006 holding the charges as proved.

3.It is the further case of the petitioner that a copy of the enquiry report was furnished to the petitioner and thereafter, the petitioner has submitted a representation dated 14.04.2006 to the second respondent. However, the second respondent without considering his representation, passed final orders on 24.04.2006 imposing the punishment of stoppage of increment for two years with cumulative effect. Subsequently, the second respondent passed another order dated 04.05.2006 directing recovery of a sum of Rs.22,947/- from the petitioner and called upon the petitioner to remit the said amount in one instalment to the Government account.

4.It is the further case of the petitioner that the petitioner preferred appeal dated 22.05.2006 before the first respondent as against the order of the second respondent dated 24.04.2006. Since no order was passed on the appeal, the petitioner preferred writ petition in W.P.No.18551 of 2006 before this Court and this Court vide order dated 20.06.2006 directed the first respondent therein to dispose of the appeal within a time frame and to keep the orders impugned in the appeal in abeyance till the disposal of the appeal. Thereafter, the first respondent vide proceedings dated 09.06.2006 rejected the petitioner's appeal. Pursuant to the order of the first respondent dated 09.06.2006, the second respondent is taking steps to implement the order of punishment and recovery. Hence, the present writ petition has been filed.

5.The learned counsel appearing for the petitioner would submit that without any proper material and without analyzing the medical bills submitted by the petitioner, the disciplinary Authority as well as the Appellate Authority came to the conclusion that the petitioner has filed bogus certificates and cheated the Government. Hence, the impugned orders are unsustainable and without any basis. Accordingly, he prayed for allowing the writ petition.

6.The learned Additional Government Pleader appearing for the respondents would submit that the petitioner claimed a sum

of Rs.35,498/- towards Medical expenses and received the amount from the Government Servant Medical Welfare Fund by submitting bogus medical bills and medical certificates. Hence, disciplinary proceedings were initiated against the petitioner under Rule 17(b) of the Tamil Nadu Civil Services (D & A) Rules. Thereafter, enquiry was conducted and the petitioner also participated in the enquiry and the petitioner's statement was also recorded.

7.The learned Additional Government Pleader relying upon the counter filed by the respondents would further submit that during enquiry the petitioner stated that he took treatment from Dr.P.Sundararajan, M.Ch. (Neuro) and Dr.R.Chinnappan, M.S. and he purchased medicines from Om Muruga Medicals, 24/D, Pallakkadu, Salem. Dr.P.Sundararajan deposed that the petitioner took treatment in his hospital from 13.12.2001 to 25.12.2001 and the petitioner spent Rs.16,735.50 towards Doctor's fees, C.T.Scan charges and other tests and medicines. Dr.R.Chinnappan deposed that the petitioner took treatment from him on the complaint of stomach pain, having pain during urination and he further deposed that the petitioner has not taken treatment on his head injuries. The Dean, M.K.M. College Hospital, Salem has given opinion that the drugs prescribed are not relevant as claimed by the petitioner and medical bills for Rs.30,719/- are not admissible and it is bogus one.

8.The learned Additional Government Pleader would further submit that considering the entire materials produced by the petitioner as well as the medical Officers' depositions, the impugned orders came to be passed and the well considered impugned orders need not be interfered with under Article 226 of the Constitution of India. Accordingly, he prayed for dismissal of the writ petition.

9.Heard the arguments advanced on either side and perused the materials available on record.

10.Admittedly, the petitioner met with an accident and sustained head injuries. He was admitted in the Hospital. Thereafter the petitioner made medical claim before the respondents and however, the respondents found that the petitioner's claim is not genuine. Thereafter, the second respondent issued the charge memo under Rule 17(b) of the Tamil Nadu Civil Services (D & A) Rules. Thereafter, Enquiry Officer was appointed and enquiry has been conducted, in which the petitioner has also taken part.

11.The Department has also examined Dr.P.Sundararajan who deposed that the petitioner took treatment in his hospital from 13.12.2001 to 25.12.2001 and the petitioner has spent

Rs.16,735.50 towards Doctor's fees, C.T.Scan charges and other tests and medicines and Dr.R.Chinnappan who deposed that the petitioner took treatment from him on the complaint of stomach pain, having pain during urination and he has further deposed that the petitioner has not taken treatment on his head injuries. The Department has also examined the Dean, M.K.M. College Hospital, Salem, who has given an opinion that the drugs prescribed are not relevant as claimed by the petitioner. Accordingly, the Disciplinary Authority passed the order of punishment and recovery and the Appellate Authority confirmed the orders passed by the Disciplinary Authority.

12.When two fact finding Authorities have arrived at the very same conclusion based on facts, this Court cannot interfere with the findings of the fact finding Authorities in a mechanical manner under Article 226 of the Constitution of India, unless it is proved that it requires interference with the available materials or if the order of the Disciplinary Authority as well as the Appellate Authority is perverse for want of evidence.

13.In view of the above, I do not find any error in the impugned orders. Accordingly, the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True copy//

Sub Assistant Registrar

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To

1.The Deputy Director of Fire and Rescue Services,
Western Range,
Coimbatore.

2.The Divisional Fire and Rescue Services Officer,
Salem.

+1cc to Mr.M.Ravi, Advocate SR.No.42861
+1cc to Government Pleader SR.No.42735

W.P.No.39514 of 2006

BR(CO)
GN(17/07/2018)