



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.08.2018**

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.A. (MD)No.1158 of 2011

and

M.P. (MD)No.1 of 2011

Anto Judi Livintha

: Appellant/Writ
Petitioner

Vs.

1. The Principal Secretary to Government,
Health and Family Welfare (AD) Department,
Secretariat,
Chennai-600 009.
 2. The Director of Medical and Rural Health Services,
Chennai-600 006.
 3. The Director of Medical Education,
Chennai-600 010.
 4. The Dean,
Tirunelveli Medical College Hospital,
Tirunelveli.
- : Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent against the order of Writ Court dated 11.10.2011, made in W.P.(MD) No.1446 of 2010.

Prayer in WP(MD). 1446/ 2010 :

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF CERTIORARIFIED MANDAMUS calling for the records in Ref.No. 75729/SC2/2/2009 dated 16.12.09 relating to framing of charges issued by the respondents herein, quash the same and directing the respondents herein to desist from inflicting any further injury and to treat the period of absence as duty and to pay the dues outstanding within a time frame as fixed by this Honourable Court.

For Appellant

: Mr.K.Muthu Ganesa Pandian

For Respondents

: Mr.A.K.Baskarapandian,
Special Government Pleader

J U D G M E N T

[Judgment of the Court was delivered by **M.M.SUNDRESH, J.**]

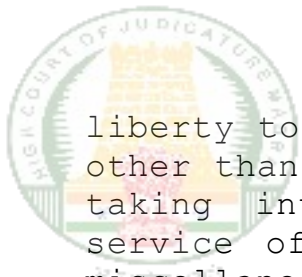
The appellant, who got appointment as a Junior Assistant, was terminated by order dated 28.01.2002 on the ground of suppression of facts. The appointment was made on compassionate ground. The termination order was passed holding that the appellant's brother is gainfully employed in the Government service. This order was put into challenge before the Administrative Tribunal. Though the Tribunal dismissed the Original Application, it was reversed by this Court in W.P.No.21313 of 2003. While allowing the Writ Petition filed, liberty was given to the respondents to proceed, if so desired. The respondents took the matter before the Supreme Court. The Special Leave Petition was dismissed. In the meanwhile, the appellant was reinstated awaiting orders from the Apex Court. Thereafter, proceedings were initiated through the charge memo.

2. The appellant, once again, put the charge memo into challenge. The learned Single Judge was pleased to dismiss the Writ Petition filed and hence, the present Writ Appeal.

3. The learned counsel appearing for the appellant would submit that the incident occurred in the year 1996 and, therefore, there cannot be any charges belatedly in the year 2009. The Special Leave Petition was dismissed and, therefore, the initiation would amount to reviewing the judicial order.

4. We are not inclined to accept the said submission. The Special Leave Petition was dismissed affirming the order of the Division Bench of this Court, which gave liberty to the respondents to proceed in accordance with law, which is exactly what they have done through the impugned charge memo. There is no delay caused. The allegation against the appellant is that at the time of appointment, material facts were suppressed. The earlier order was passed after coming to know of the aforesaid suppression. In such view of the matter, there is no delay actually that has occurred. Thus, we do not find any merit in this Writ appeal.

5. In fine, the Writ Appeal is dismissed. However, the respondents shall proceed with the matter and complete the proceedings based upon the evidence available on record, without being influenced by the order passed by the learned Single Judge as well as by us. Since the appellant is working for nine years, she shall be permitted to continue till appropriate final order is passed. The appellant is also permitted to give her explanation, within a period of six weeks from the date of receipt of a copy of this judgment. We make it clear that the respondents are at



liberty to pass appropriate orders including the lesser punishment other than the dismissal, in the event of charges being proved, by taking into consideration of the factum of long unblemished service of the appellant. No costs. Consequently, the connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

1. The Principal Secretary to Government,
Health and Family Welfare (AD) Department,
Secretariat,
Chennai-600 009.
2. The Director of Medical and Rural Health Services,
Chennai-600 006.
3. The Director of Medical Education,
Chennai-600 010.
4. The Dean,
Tirunelveli Medical College Hospital,
Tirunelveli.

+1cc to Mr.K.Muthu Ganesa Pandian, Advocate SR.No.80507

+1cc to SPECIAL GOVERNMENT PLEADER, SR.No.80752

Sml

MK/SV/SAR 4/10.09.2018/3P/7C

Judgment made in
W.A. (MD) No.1158 of 2011
Dated: **28.08.2018**