

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :14.03.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.28414 of 2018

and

W.M.P.No.33132 of 2018

D.Hemakumar

.. Petitioner

..vs..

Director of Public Health & Preventive Medicine,
O/o.The Director of Public Health & Preventive Medicine,
Teynampet, Chennai - 600 006.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent proceedings vide R.No.134127/1/DA/99/S2, dated 16.08.1999 from 03.08.1999 onwards under sub rule (e) (e) of Rule 17 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, and quash the same and directing the respondent to revoke the suspension and also to reinstate the petitioner into the services as Health Inspector Grade - I (B), Government Primary Health Centre, Naravarikuppam, Redhills, Chennai - 600 052.

For Petitioner : M/s.J.Milton Arul Rajendran

For Respondent : Mr.R.S.Selvam
Government Advocate

O R D E R

The order of suspension dated 16.08.1999 issued under Sub Rule (e) (2) of Rule 17 of the Tamil Nadu Civil Services {Discipline and Appeal} rules, is under challenge in the present writ petition.

2. The writ petitioner was working as Health Inspector Grade - I (B) and on account of certain allegations, a criminal case was registered against him and he was arrested by police on 03.08.1999 and detained in Judicial Custody for a period of longer than 48 hours and the criminal case was pending at that point of time.

3. The learned counsel for the writ petitioner states that subsequently, the criminal case was closed as "Mistake of Fact".

However, the writ petitioner is kept under suspension for an unspecified period without any reason. The order dated 18.04.2018 issued by the Public Information Officer / Chief Metropolitan Magistrate states that the Final Report has been filed by the Sub-Inspector of Police, Central Crime Branch, Egmore, Chennai by referring the case as "mistake of fact" by dropping further action. Thus, keeping the writ petitioner under suspension for an unspecified period is certainly impermissible and this apart the departmental disciplinary proceedings are not issued in charge memo to the writ petitioner, so far. Under these circumstances, this Court is of an opinion that the writ petition deserves to be considered.

4. An employee cannot be kept under suspension for an unspecified period and payment of subsistence allowance for a longer period without extracting any work from the employee will also cause financial loss to the State exchequer. This apart, the Competent Authority on initiation of disciplinary proceedings must ensure that such proceedings are concluded within a reasonable period.

5. This being the principles to be followed, the impugned order passed by the respondent in proceedings R.No.134127/1/DA/99/S2, dated 16.08.1999, is quashed and the respondent is directed to reinstate the petitioner in service immediately.

6. Accordingly, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar (CS V)

True Copy

Sub-Assistant Registrar

Pns
To

Director of Public Health & Preventive Medicine,
O/o.The Director of Public Health & Preventive Medicine,
Teynampet, Chennai - 600 006.

+3 Ccs to Mr.J.Milton Arul Rajendran, Advocate sr 24406.
+1 CC to Govt. Pleader sr 24686.

W.P.No.28414 of 2018
and
W.M.P.No.33132 of 2018

RV (CO)
SP (25/04/2019)