



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.08.2019

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P[MD]No.8003 of 2014
and
M.P.[MD]No.1 of 2014

C.Thanga Chinniah

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Health and Family Welfare Department,
Fort St. George, Chennai.

2.The Joint Director,
Medical, Rural Health and Family Welfare,
Virudhunagar.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the second respondent vide his proceedings in Mu.Mu.No.5099/Chika/2012 dated 10.12.2013 and quash the same.

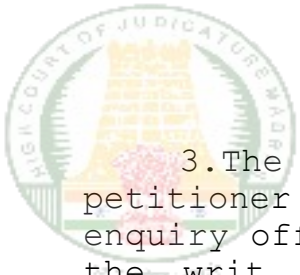
For Petitioner : Mr.S.Wilson

For Respondents : Mr.C.Ramar
Additional Government Pleader

O R D E R

The order of punishment dated 10.12.2013, imposing the punishment of stoppage of increment for one year with cumulative effect is under challenge in the present writ petition.

2.The writ petitioner was working as a Driver in Government hospital. The allegation against the writ petitioner is that during the life time of his first wife, he entered into a contract for second marriage with another women. Thus, he has violated the conduct rules. Accordingly, the departmental disciplinary proceedings were initiated under Rule 17-B of the Tamil Nadu Civil Services (Discipline & Appeal) Rules.



3.The learned Counsel appearing on behalf of the writ petitioner states that though an enquiry was conducted by the enquiry officer, the copy of the enquiry report was not furnished to the writ petitioner enabling him to submit further objections. Contrarily, the order of punishment was issued without providing an opportunity to the writ petitioner to peruse the enquiry report and submit his objections with reference to the findings made in the report. Thus, the order impugned is liable to be scrapped.

4.Learned Additional Government Pleader appearing on behalf of the respondent though produced the original files, there is no proof to establish that the copy of the enquiry report was furnished to the writ petitioner enabling him to submit his objection. No second show cause notice was also issued for the purpose of getting explanations from the writ petitioner. In view of the procedural irregularity committed by the respondents in communicating the copy of the enquiry report and providing an opportunity to the writ petitioner to submit his further explanation, this Court is of the opinion that the writ petition is necessarily to be remanded to the authority concerned for the purpose of complying with the procedures. This being the factum, the following orders are passed:

i)The impugned order passed by the second respondent in No.5099/Chika/2012 dated 10.12.2013 is quashed.

ii)the second respondent is directed to communicate the copy of the enquiry report to the writ petitioner within a period of four [4] weeks from the date of receipt of a copy of this order. On receipt of the copy of the enquiry report, the writ petitioner shall submit his further explanation / objection if any on the findings of the enquiry report within a period of three [3] weeks from the date of receipt of a copy of the enquiry report. Thereafter, the second respondent is directed to consider the materials available on record take a decision and pass orders afresh within a period of six [6] weeks therefrom.

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

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)



To

1. The Secretary to Government,
State of Tamil Nadu,
Health and Family Welfare Department,
Fort St. George, Chennai.

2. The Joint Director,
Medical, Rural Health and Family Welfare,
Virudhunagar.

+1 CC to M/s.SPL GP (SR-79451[F] dated 02/08/2019)

W.P[MD]No.8003 of 2014
01.08.2019

MR

JMN(21.08.2019) 3P : 4C