

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2020

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. 16559 of 2007
(O.A.No.2079 of 2003)

G.Saraswathy

...Petitioner

Versus

The Director of Medical Education,
Chennai - 10.

...Respondent

PRAYER: Originally this petition has been filed as Original Application No.2079 of 2003 before the TamilNadu Administrative Tribunal at Chennai and after abolition of TNAT, petition has been transferred and numbered as W.P.No.16559 of 2007.

Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the respondent in connection with the impugned order passed by him in his Na.Ka.No.18204/_CPP2(2)/2001 dated 23.05.2003 and quash the same and grant her such other further relief as this Hon'ble Court.

For Petitioner	:	No appearance
For Respondent	:	Mr.Akil Akbr Ali Government Advocate

O R D E R

The petitioner has filed Application before the Tamilnadu Administrative Tribunal, Chennai in the year 2003 in O.A.No.2079 of 2003. Subsequently, due to abolition of the Administrative Tribunal, the matter has been transferred to this Court and renumberd as W.P.No.16559 of 2007.

2. This Writ Petition has been filed challenging the order passed by the respondent in Na.Ka.No.18204/_CPP2(2)/2001 dated 23.05.2003 and seeks to quash the same.

3. No representation for the petitioner despite several opportunities given.

4. The case of the petitioner is that initially the petitioner was appointed as Typist on 23.10.68. Thereafter, she was promoted as Junior Assistant in the year 1976 and subsequently, she was promoted as Assistant in the year 1980. Further she was promoted as Superintendent in the year 1995. While she was in service a charge memo was issued dated 6.2.01 stating that she has failed to supervise the work of the Junior Assistants and Assistants properly, thereby certain files were not looked into by the petitioner. It was further alleged that one Sweeper, viz., Karuppaiah was continuously absent (from Nov 1995) for a very long time against whom no action was taken by the Junior Assistant and the Assistant and even his retirement date was not properly noted and even after crossing of the superannuation date, no action was taken against him. After the death of the said Karuppaiah when his legal heirs claimed retirement benefit, it was brought to the knowledge of the petitioner and thereafter only action was taken.

5. It is further averred in the petition that during that relevant time, one K.Sivagami was working as Junior Assistant who was appointed on compassionate grounds and she was in charge of the personnel files and service registers of various Government servants. The said Karuppaiah who was serving in the department was continuously absence from 1.11.95 and his absence was not brought to the knowledge of the Superintendent/petitioner for taking further action. Moreover, the above said Karuppaiah was due for retirement on 31.5.99 and as there was no action taken against him, he was allowed to retire from service on that date and subsequently the Junior Assistant Sivagami tamper the service records of Karuppaiah with reference to the date of birth as 18.5.41.

6. It is also averred in the petition that a charge memo was issued dated 6.2.01 under section 17(a) of TNCS (D& A) Rules and totally 8 charges were levelled reads as follows:

- i) As a Superintendent serving in the office in between 16.5.91 to 17.2.2001 no action was taken against the Laskar Tr.M. Karuppaiah and thereby derelicted in her duties.
- ii) By not taking action against Laskar Karuppaiah who is due for retirement on 31.5.99 thereby allowed him to continue as Government servant and cause loss to the Government.
- iii) Instigating the Junior Assistant Tmt.K.Sivagami to tamper the service records of Laskar Karuppaiah with reference to his date of birth dt.18.5.1939 into 18.5.41 and on her refusal you have tampered the service records and thereby violated Government servant conduct rules.
- iv) Instructing the Junior Assistants to take action against said Karuppaiah as if he is due for retirement on 31.5.01.

v) Tampered the service records of Tr.Karuppaiah and retained the same in his custody and refused to hand over to the Junior Assistant K.Sivagami

vi) Failure to bring it to the knowledge of the authorities about the date of retirement of Karuppaiah on 31.5.99 by tampering the records.

vii) By tampering the records, paving way for the legal heirs of the deceased Karuppaiah to claim benefits on compassionate grounds.

viii) Conduct herself as unbecoming conduct of the Government servant.

Thereafter as per the oral enquiry conducted in the year 2002 and a report has been submitted by the enquiry officer stating that the charges against the petitioner were proved. In the mean while, the petitioner became due for promotion for the post of Junior Administrative Officer in the same department, but due to the pending disciplinary proceedings, the claim of the petitioner was deferred and her juniors were promoted. Therefore, the petitioner filed Original Application in O.A.No.659/03 and same was ordered on 25.02.2003 with direction to the respondents to consider the representation and pass final orders within a period of three months from the date of the order failing which the respondent shall consider the claim of the petitioner for promotion. Thereafter, the respondent issued a show cause notice to the petitioner on 1.5.2003 stating that all the charges against the petitioner were proved and awarded a punishment of stoppage of increment for a period of one year without cumulative effect. Hence, the petitioner filed this petition with above said prayer.

7. The learned Government Advocate appearing for the respondent would submit that the petitioner was working as Office Superintendent at Thanjavur Medical Collage. While she was in service, a charge memo was issued on 6.2.01 and totally 8 charges were levelled. Thereafter the enquiry officer was appointed. After the enquiry, the enquiry officer filed a report stating that the charge levelled against the petitioner were proved and awarded the punishment of stoppage of increment for a period of one year without cumulative effect. Since the charge memo was pending she was not considered for her promotion for the panel 2000-2001 and hence she was not filed any appeal or revision. Though, challenging the order of reduction of the punishment of withholding of increment for a period of one year without cumulative effect. The petitioner challenged only on the ground that opportunity was not given. Hence, the learned Government Advocate seeks this Writ Petition may be dismissed.

8. A careful perusal of the record, the petitioner was given an opportunity and the explanation was called for and the enquiry officer has passed the detailed order and found that the charges levelled against the petitioner were proved and based on that awarded the punishment of stoppage of increment for a period of one year without cumulative effect dated 23.5.2003 in Na.Ka.No.18204/CMaP2/2/2000. There is no violation of principles of natural justice. Therefore, this Court does not find any interference in the order passed by the respondent, this Writ Petition is liable to be dismissed. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mpa

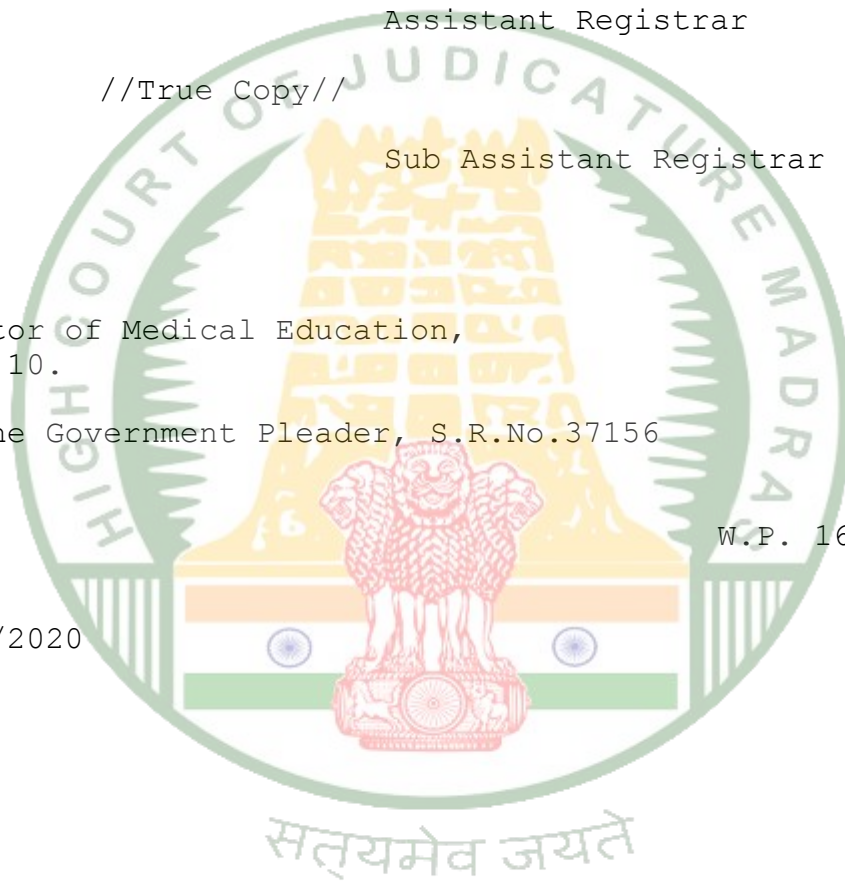
To

The Director of Medical Education,
Chennai - 10.

+1cc to the Government Pleader, S.R.No.37156

W.P. 16559 of 2007

SAI (CO)
KKV/30/12/2020



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