

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2020

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.37592 of 2005
and W.P.M.P.No.40297 of 2005

S.Sridharan (deceased)

P-2.T.Gowri

..Petitioners

(2nd petitioner substituted as legal heir of the deceased sole petitioner as per the order of this Court dated 15.10.2020 made in W.P.M.P.No.401 of 2011 in W.P.No.37592 of 2005)

Vs

1. The Joint Director of Health Services,
District Family Welfare Bureau,
Coimbatore District.
2. The Deputy Director of Medical and Rural
Health Services and Family Welfare,
District Family Welfare Bureau,
Coimbatore - 641 018.

..Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking issuance of a writ of certiorarified mandamus to call for the records in pursuant to the impugned order passed by the 2nd respondent in Proceedings Na.Ka.No.4586/K1/93 dated 12.09.2005 and quash the same and consequently directing the respondents to reinstate the petitioner in service with full back wages and other consequential service benefits.

For Petitioners : Mr.R.Prem Narayan
for Mr.R.Subburaj

For Respondents : Mr.K.Magesh
Special Government Pleader

O R D E R

The prayer sought for in this writ petition is for a issuance of writ of certiorarified mandamus to quash the impugned order of the second respondent dated 12.09.2005 and consequently to direct the respondents to reinstate the

petitioner into service with full back wages and other consequential service benefits.

2. It is the case of the deceased first petitioner that when he was working as a Driver in Government Public Health Centre, Kolarpatti in Coimbatore District, a criminal case registered by the Forest Ranger, Maraiyoor Range, Idukki District in O.R.No.14 of 1992 and subsequently, he was placed under suspension. Thereafter, a charge memo was issued against the first petitioner alleging that he transported sandal wood by using the Public Health Government Jeep. It is further stated that without proper enquiry and without giving an opportunity to defend his case, the enquiry officer filed a report. Subsequently, based on the enquiry report the second respondent by proceedings dated 12.09.2005 passed an order imposing punishment of compulsory retirement. Challenging the same, the present writ petition.

3. Heard the learned counsel for the petitioner, the learned Special Government Pleader for the respondents and perused the materials available on record.

4. During the pendency of the writ petition, the first petitioner died and hence, the second petitioner was impleaded as a legal heir of the deceased sole petitioner by order of this Court dated 15.10.2020.

5. The learned counsel for the petitioner would submit that without proper enquiry and without giving any opportunity to examine the witnesses, the enquiry officer submitted the report stating that the charges levelled against the first petitioner were proved. Though the first petitioner given explanation stating that two persons were forcibly taken the vehicle and he was admitted in the hospital for treatment, but, the same was not considered by the enquiry officer. He would further submit that during the pendency of the writ petition the first petitioner died and hence, the impugned order may be set aside and to direct the respondents to pay all monetary benefits to the legal heir of the deceased, who is impleaded as second petitioner in this writ petition.

6. The learned Special Government Pleader for the respondents would submit that while the first petitioner was working as a driver in the Health Department, he taken the Jeep for water service and he did not hand over the vehicle to the office. Further, the deceased first petitioner submitted a report before the superior officers that he was kidnapped by two unknown persons and they took the vehicle, which was used for transporting the sandal wood to Kerala State. Subsequently, the first petitioner was arrested by the Kerala Police and he was in judicial custody for more than four days. Hence, the first

petitioner was placed under suspension. Thereafter, charge memo was issued and explanation was called for from the first petitioner and the same was not satisfied and hence, enquiry officer was appointed. After due enquiry, the first petitioner was imposed with a punishment of compulsory retirement. Therefore, there is no merit in this writ petition and the same may be liable to be dismissed.

7. Admittedly, the first petitioner was working as a driver in the Health Department, while he was in service he was placed under suspension. The charges levelled against the first petitioner are grave in nature and the same were proved he was imposed with a punishment of compulsory retirement. Further, based on the criminal proceedings initiated by the Kerala Police, the first petitioner was arrested and he was in judicial custody for more than four days, that itself would show that the first petitioner while he was in duty without any permission he crossed the Tamil Nadu border and went to Kerala State. Even he was admitted in the hospital, he has not stated that he met with an accident and somebody forcibly taken the vehicle. Further, he stated that he sustained injury in the house and for that only he was admitted in the hospital. That itself would show that the first petitioner was not given genuine reason and explanation.

8. Considering the facts and circumstances of the case and grave nature of the allegations and the punishment awarded by the disciplinary authority, there is no disproportionate to the charges levelled against the first petitioner. Therefore, this Court is of the view that there is no merit in the writ petition and the same is liable to be dismissed. Accordingly, the writ petition is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Joint Director of Health Services,
District Family Welfare Bureau,
Coimbatore District.
2. The Deputy Director of Medical and Rural
Health Services and Family Welfare,
District Family Welfare Bureau,
Coimbatore - 641 018.

+1cc to Mr.R.Prem Narayan, Advocate, S.R.No.37493
+1cc to the Government Pleader, S.R.No.37564

W.P.No.37592 of 2005
and
W.P.M.P.No.40297 of 2005

MP (CO)
RV (04/01/2021)



WEB COPY