



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.11116 of 2020

and

W.M.P. (MD)No.9732 of 2020

R.Mayammal

... Petitioner

Vs.

1.The Director,
Indian Medical and Homeopathy Department,
Chennai-106.

2.The Dean,
In Charge,
Government Homeopathy
Medical College Hospital,
Thirumangalam,
Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the impugned order passed by the second respondent in proceeding No.1575/Ne/2020 dated 27.07.2020 regarding the suspension of me and quash the same as illegal and consequently directing the second respondent herein to permit the petitioner to discharge the petitioner's duties as sweeper in the second respondent college without any hindrance.

For Petitioner : Mr.M.Maran

For Respondents : Mr.M.Karuppasamy
Government Advocate

ORDER

The prayer sought for herein is for a Writ of Certiorarified Mandamus, to call for the impugned order passed by the second

<https://hcservices.ecourts.gov.in/hcservices/>



respondent in proceeding No.1575/Ne/2020 dated 27.07.2020 regarding the suspension of the petitioner and quash the same and consequently directing the second respondent herein to permit the petitioner to discharge the petitioner's duties as sweeper in the second respondent college without any hindrance.

WEB COPY

2.The petitioner has been working as a Sweeper at Government Homeopathy Medical College Hospital, Thirumangalam, Madurai District, against whom, already a disciplinary proceedings was initiated, pursuant to which, she was placed under suspension on 25.11.2019. However, subsequently the respondent has revoked the suspension order and after revoking the order, she was transferred on 17.06.2020 from Tirumangalam to Government Siddha Hospital, Ananthoor, Ramanathapuram District. Challenging the said order of transfer dated 17.06.2020, the petitioner filed a Writ Petition in W.P.(MD)No.7305 of 2020, where, this Court, by order, dated 08.07.2020 had quashed the said order of transfer, on the ground that, transfer cannot be an alternative for initiating disciplinary proceedings against the erring employee, by passing the following order :

"14. Therefore, by taking into account all these aspects on the factual matrix of this case, this Court is inclined to dispose of this writ petition with the following directions:-

(a) The impugned order, dated 17.06.2020 and the consequential order, dated 19.06.2020 are hereby quashed;

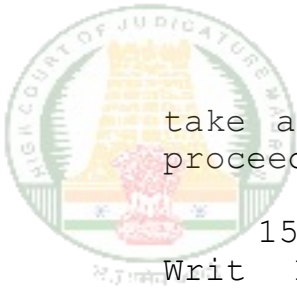
(b) It is open to the respondents to initiate disciplinary proceedings against the petitioner for any error or mistake committed or violation made by the petitioner and such disciplinary proceedings, if the respondents desire, can be initiated immediately;

(c) Once the disciplinary proceedings are initiated, it is open to the respondents to decide as to whether the petitioner can be placed under suspension and if they are so desirous to place the petitioner under suspension, they can do so;

(d) The disciplinary proceeding, if any, is initiated, the same shall be completed within a period of three months from the date of initiation of the proceedings, for which, the petitioner shall give or render fullest cooperation;

(e) If the petitioner is placed under suspension, in case of disciplinary proceedings are initiated, then, necessary Subsistence Allowance shall be paid to the petitioner;

(f) If the disciplinary proceedings are initiated and concluded as indicated above, the Disciplinary Authority can



take action depending upon the outcome of the disciplinary proceedings in accordance with law.

15. With these above directions and observations, the Writ Petition stands ordered accordingly. Consequently, connected miscellaneous petitions are closed. However, there shall be no order as to costs."

3. Thereafter the petitioner has been permitted to join duty at Tirumangalam itself by the proceedings of the respondent dated 21.07.2020.

4. That being so, on 21.07.2020 itself, the petitioner was permitted to give reply to the charge memo already given to her within a time frame and subsequently it seems that, the petitioner has not appeared before the Enquiry Officer. However, this fact is disputed by the learned counsel for the petitioner that, the petitioner has appeared before the enquiry officer.

5. Be that as it may, now by the impugned order dated 27.07.2020, the petitioner has been placed under suspension pending completion of the enquiry already initiated against the petitioner. Challenging the suspension order dated 27.07.2020, this Writ Petition has been filed.

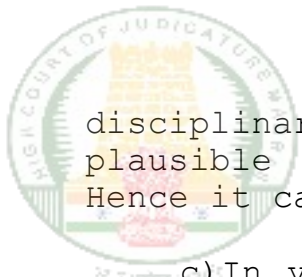
6. The learned counsel for the petitioner would submit that, the petitioner has become victim because she has given complaint against so many persons in the hospital. Instead of taking action against them, action has been taken against the petitioner.

7. The said contention cannot be accepted at this juncture, because, the petitioner is now facing disciplinary proceedings where the enquiry officer is appointed and liberty is given to the petitioner to utilise the said opportunity.

8. Therefore, by taking into account all these aspects and the factual matrix of this case, this Court is inclined to pass the following order:-

a) The petitioner has to appear before the enquiry officer and she can take all her defence before the enquiry officer and ultimately orders shall be passed by the disciplinary authority, after giving second opportunity to the petitioner. Till all these formalities/disciplinary proceedings is completed, it cannot be taken into account that, the petitioner as a victim at this juncture. On that account, the suspension order dated 27.07.2020 cannot be successfully challenged by the petitioner.

b) If the disciplinary authorities or the employer decided to keep the employee under suspension, enabling the smooth conduct of



disciplinary proceedings or pending of disciplinary procedures for a plausible reason, such a suspension cannot be interfered with. Hence it cannot also be considered as a prolonged suspension.

c) In view of the aforesaid reasons, this Court is not inclined to interfere with the impugned order dated 27.07.2020. It is made clear that in order to enable the respondents / enquiry officer to complete the enquiry at the earliest, the petitioner shall give full cooperation, so that the disciplinary proceedings can be completed within a shortest time.

9. With these observations, this Writ Petition is dismissed. Consequently, connected miscellaneous petition is closed. However, there is no order as to costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Director,
Indian Medical and Homeopathy Department,
Chennai-106.

2. The Dean,
In Charge,
Government Homeopathy
Medical College Hospital,
Thirumangalam,
Madurai District.

+1CC to Special Government Pleader, SR.No. 16370

W.P. (MD) No. 11116 of 2020
08.09.2020

pnn

SDS (01.10.2020) 4P-4C

<https://hcservices.ecourts.gov.in/hcservices/>