

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

WP.No.15493/2021

[Video Conferencing]

M.Fathima Bee

.. Petitioner

Vs.

The Dean
Rajiv Gandhi Government General
Hospital, Chennai 600 003.

.. Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of certiorarified mandamus calling for the records on the file of the respondent in Na.Ka.No.018886/சமட/2020 dated 21.05.2021 and quash the same as illegal and consequently direct the respondent to revoke the suspension order and restore the petitioner as laboratory technician in Rajiv Gandhi Government General Hospital, Chennai.

For Petitioner : Mr.K.Balamurugan
For Respondent : Mr.C.Kathiravan
Government Advocate

ORDER

1. By consent, the writ petition is taken up for final disposal and disposed of by this order.

2. Mr.C.Kathiravan, learned Government Advocate accepts notice on behalf of the sole respondent.
3. The present writ petition is filed seeking to quash the order of the respondent dated 21.05.2021 with a direction to the respondent to revoke the suspension order and to reinstate the petitioner as Laboratory Technician in the respondent-Hospital.
4. The petitioner, while working as laboratory Technician in the respondent-Hospital, was found to be involved in a case of theft of a mobile phone. Pursuant to the registration of the criminal case in Crime No.73 of 2020, the petitioner was arrested and remanded to judicial custody on 06.10.2020. The petitioner was suspended from service by an order dated 08.10.2020 under Rule 17[3] of the Tamil Nadu Civil Services [Discipline and Appeal] Rules. The petitioner challenged the order of suspension before this Court by filing WP.No.20193 of 2020 and the said writ petition was disposed of vide order dated 04.01.2021 and the operative portion of the said order reads thus:-

"6.In fine, this Court expects the respondent to frame charges and proceed with the departmental enquiry

and bring the issue to a logical end within a period of six months from the date of receipt of a copy of this order. The petitioner shall not stall the proceedings in any manner and cooperate with the enquiry.

This writ petition is disposed of with the above observation. No costs. Consequently, connected miscellaneous petition is closed."

5. After the disposal of the above writ petition, a charge memo has been issued by the respondent vide impugned proceedings dated 21.05.2021 and challenging the same on the ground of delay, the present writ petition is filed by the petitioner.
6. The learned counsel for the petitioner would submit that this Court has fixed the outer time limit of six months to conclude the disciplinary proceedings in its' earlier order dated 04.01.2021 from the date of receipt of a copy of the said order. It is the contention of the learned counsel for the petitioner that since the earlier order was passed only on 04.01.2021, the charge memo was issued on 21.05.2021 and the said act of the respondent in violating the order of this Court dated 04.01.2021 in passing the impugned order before even completion of the enquiry is unsustainable and should be

quashed and hence, prays for interference of this Court.

7. This Court heard the submissions of the learned Government Advocate appearing for the respondent and perused the materials placed.
8. Absolutely there is no substance in any of the submission made by the learned counsel for the petitioner. Firstly, there was no direction by this Court to initiate and conclude the departmental enquiry within a period of six months as contended by the learned counsel for the petitioner. From the nature of the order passed by this court, it is seen that this Court only expected the respondent-Hospital to frame charges and proceed and complete the departmental enquiry to its logical end within a period of six months. The time limit is only tentative and the charge memo, impugned herein, cannot be questioned now on the basis that it is in violation of the earlier order of this Court. Secondly, the petitioner is guilty of serious offence. Though the petitioner has questioned the charge memo, the petitioner relied upon few judgments which have no relevancy to quash the present charge memo and to interfere with the order of suspension. The learned counsel for the petitioner repeatedly made

submission that the petitioner was wrongly implicated in the criminal case. Since the charge memo has not been filed pursuant to the registration of the complaint, the learned counsel suggested that all departmental proceedings initiated against the petitioner, is not sustainable.

9. Having regard to the prayer in the writ petition, this Court is not inclined to go outside the purview of the writ petition. The writ petition challenging the charge memo is not maintainable unless the charge memo is issued by a person without authority or competent or other grounds which would invalidate the charge memo.
10. Having regard to the scope of judicial review and the fact that there is no special circumstances warranting interference of this Court in this case, this Court is of the view that the writ petition lacks merit and substance.
11. Accordingly, the writ petition stands dismissed. No costs.

27.07.2021

AP

Internet : Yes

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S.S.SUNDAR, J.,

AP

To

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