

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.01.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.20193 of 2020 and

WMP No.24948 of 2020

M.Fatimabee,  
(Laboratory Technician at  
Rajiv Gandhi Govt. Hospital) ...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 to issue a writ of Certiorari to call for the records on the file of the respondent in Na.Ka.No.18886/Ne3/1/2020, dated 08.10.2020 and quash the same as illegal.

For Petitioner : Mr.M.Srinivasan  
For Respondent : Mr.A.Aruldoss  
Government Advocate

O R D E R

This Writ Petition has been filed, seeking to quash the order of the respondent passed in Na.Ka.No.18886/Ne3/1/2020 dated 08.10.2020, whereby the petitioner was suspended from service. Challenging the same, the petitioner is before this Court.

2. When the matter is taken up for hearing, it is represented by the counsel for the petitioner that a false case has been foisted against her for theft of a mobile phone, pursuant to which, she was arrested and remanded to judicial custody. Though she was in jail for less than 48 hours and was granted bail, ignoring the said fact, she has been placed under suspension.

3. Mr.A.Aruldoss, learned Government Advocate, who takes notice for the Government/respondent, would submit that the petitioner has committed a theft of cell phone and she was granted bail on condition. According to him, *dehors* criminal charges, when the conduct of the petitioner is questionable, the respondent is entitled to place her under suspension.

4. Even assuming that the relevant provision of the rule has not been followed and that the petitioner was not in custody for more than 48 hours, still the petitioner can be placed under suspension for theft of an article and there is no employer and employee relationship during the suspension period and the petitioner cannot be allowed to be reinstated. In that event, it will give a wrong signal to everyone and other employees will also involved in such similar misconduct. Though there is some substance in the argument of the respondent, this Court does not want to deal with the matter on merits and the contention raised by the parties in the present Writ Petition.

5. At the same time, it is not in dispute that once an employee is placed under suspension, the employee will be entitled to subsistence allowance. It is needless to mention that it is open to the respondent to frame charges and proceed with the departmental enquiry and impose a punishment in terms of the Rule in case charges are established in the domestic enquiry. The grant of relief in the present Writ Petition will not help the petitioner in any way and the respondent will be unnecessarily paying the money by keeping the petitioner under suspension.

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.

Sd/-

सत्यमेव जयते  
Assistant Registrar (C.S.III)

/True Copy/

Sub Assistant Registrar

To:

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

+1 cc to The Government Pleader Sr.No. 179

AKM/11.02.2020/2P- 3C /

W.P.No.20193 of 2020