



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.12.2021

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THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P (MD)No.5479 of 2020

& WMP(MD)Nos.4781 & 4783 of 2021

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Veeramani

... Petitioner

Vs.

The Dean,
K.A.P.V.Government Medical College,
Tiruchirappalli,
Tiruchirappalli District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order bearing Na.Ka.No.6084/Ni3/2019 dated 20.06.2019 on the file of the respondent and quash the same and consequently direct the respondent to reinstate the petitioner into service with all consequential monetary and service benefits.

For Petitioner : Mr.K.Samidurai
For Respondent : Mr.P.T.Thiraviam,
Government Advocate

ORDER

Heard Mr.K.Samidurai, learned counsel appearing for the petitioner and Mr.P.T.Thiraviam, learned Government Advocate appearing for the respondent.

2.This Writ Petition has been filed seeking for issuance of a Certiorarified Mandamus, to call for the records relating to the impugned order bearing Na.Ka.No.6084/Ni3/2019 dated 20.06.2019 on the file of the respondent and quash the same and consequently direct the respondent to reinstate the petitioner into service with all consequential monetary and service benefits.

3.By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

4.The petitioner was placed under suspension vide proceedings dated 20.06.2019 by the respondent, pursuant to his involvement in a criminal case and remanded to judicial custody. The grievance of the petitioner is that he has been placed under suspension for the past 2 ½ years and no charge memo was issued and no reasons were assigned for continuing his suspension. In such circumstances, the petitioner made a representation dated 27.02.2020, seeking to revoke the suspension order, which evoked no response. Hence the Writ Petition.



5.The petitioner has filed this writ petition primarily relying on the judgment of the Hon'ble Supreme Court in "**Ajay Kumar Choudhary Vs. Union of India**" reported in (2015) 7 SCC 291, wherein the Hon'ble Supreme Court has deprecated prolonged periods of suspension, having observed as under:

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"11.Suspension, specially preceding the formulation of charges, is essentially transitory or temporary in nature, and must perforce be of short duration. If it is for an indeterminate period or if its renewal is not based on sound reasoning contemporaneously available on the record, this would render it punitive in nature. Departmental/disciplinary proceedings invariably commence with delay, are plagued with procrastination prior and post the drawing up of the memorandum of charges, and eventually culminate after even longer delay."

6.A Division Bench of this Court also in the case of "**Ambigapathy, P.S. Vs. The Director of Public Health & Preventive Medicine**" [1991 Writ L.R. 273], has held that the prolonged suspension is unreasonable and without any justification. It has been observed that if the charge memo / Charge sheet is not served in departmental disciplinary inquiries within a period of three months, the suspension should not extend beyond the said period. If the memorandum of charges is served, a reasoned order must be passed for the extension of suspension.

7.In this case, though the petitioner is under suspension for 2 ½ years, no charge memo is issued. In view of the above, the impugned order of suspension bearing Na.Ka.No.6084/Ni3/2019 dated 20.06.2019 is set aside with a liberty to the respondent to issue the charge memo forth with and to proceed with the departmental proceedings as expeditiously as possible. If the respondent decides it is just and necessary to place him under suspension, pending the enquiry, it is open to the respondent to pass fresh orders assigning the reasons for invoking suspension.

8.Accordingly, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

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:

The Dean,
K.A.P.V.Government Medical College,
Tiruchirappalli,
Tiruchirappalli District.

+1 CC to M/s.K.SAMIDURAI, Advocate (SR-38471[F] dated 13/12/2021)

+1 CC to M/s.SPL GP (SR-38604[F] dated 14/12/2021)

**W.P (MD) No.5479 of 2020
13.12.2021**

RS(26.02.2022) 3P 4C