



W.P.(MD) No.7121 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.06.2022

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD) No.7121 of 2020
and W.M.P.(MD).No.6564 of 2020

R.J.Venkatesan

... Petitioner

Vs.

1.The State of Tamil Nadu,
rep. by its Secretary to Government,
Health and Family Welfare (K2) Department,
Secretariat, Fort St. George,
Chennai – 600 009.

2.The Joint Director of Health Service,
Tanjore @ Kumbakonam,
Tanjore District.

3.The Dean,
Government Head Quarters Hospital,
Kumbakonam,
Tanjore District.

... Respondents

PRAYER : Writ petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari to call for the records pertaining to the impugned order in G.O.(D).No.354 Health and Family Welfare(K2) Dept. dt 17.03.2020, served to the petitioner on 01.06.2020 on the file of the respondent No.1 and



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quash the same as illegal.

For Petitioner : Mr.T.Lajapathi Roy for
Mr.J.Pandidorai

For Respondents : Mr.D.Farjana Ghoushia
Special Government Pleader

ORDER

Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents.

2.The charges against the petitioner was that he had procured non classified medical instruments to the tune of Rs.11,92,269/- during the Mahamagam festival in the year 2016 at Kumbakonam; that he had procured 20 stretcher Trolleys at higher rate of Rs.16,500/-, which was also available for Rs.8,500/-; that he had rented pillows and mattresses for an amount which was more than the prices; and that he had failed to remit the balance amount of the expenditure towards medical facilities Rs.3,466/- to the Government.

3.The petitioner herein, seems to have given a detailed explanation for all the four charges by way of statements to the Enquiry Officer. However, the



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Enquiry Officer has come to the conclusion, that all the charges have been proved. Based on the proven charges, the first respondent herein has passed the present impugned punishment in G.O.(D)No.354, Health and Family Welfare (K2) Department, dated 17.03.2020, imposing the punishment of stoppage of increment for a period of one year with cumulative effect together with recovery of a sum of Rs.4,33,226/-.

4.Furthermore, the first respondent herein while awarding the punishment had not given any independent findings, but simply in one sentence stated that the delinquent officer has not put forth any new valid points against the charges framed against him and thereby, imposed the punishment. Such procedure is in violation of Rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules.

5.The impugned order is non-speaking order. Though the order of punishment runs to about 7 pages, the findings are found in the penultimate portion of the order. As per the findings, the disciplinary authority had accepted the report of the Enquiry Officer in a single sentence that the



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estimates were split up into many packages to avoid the administrative sanction of the District Collector, which is against the instructions given, which shows that there was a malafide intention and violation of procedures. Apart from this sentence, there is absolutely no discussion as to how the Disciplinary Authority had come to a subjective satisfaction that the charges were held to be proved. In the absence of the same, the order itself is deemed to be one of non-application of mind and consequently, is regarded as a non-speaking order.

6.Under Rule 17(b) (ii) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, the disciplinary authority is mandated to take into consideration the further representation of the delinquent before imposing any penalty. In the instant case, there is absolutely no reference to the further representation of the petitioner and on this ground, the order of punishment is deemed to be one of non-application of mind.

7.Accordingly, the impugned order in G.O.(D).No.354 Health and Family Welfare(K2) Dept. dt 17.03.2020, served to the petitioner on



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01.06.2020 on the file of the respondent No.1, is hereby set aside and the matter is remanded back to the first respondent for fresh consideration. The first respondent shall pass final orders within a period of one month from the date of receipt of a copy of this order.

8.This writ petition stands disposed of, accordingly. No costs.
Consequently, connected miscellaneous petition is closed.

22.06.2022

Index : Yes / No
Speaking Order/ Non Speaking Order

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To

- 1.The Secretary to Government,
Health and Family Welfare (K2) Department,
Secretariat, Fort St. George,
Chennai – 600 009.
- 2.The Joint Director of Health Service,
Tanjore @ Kumbakonam,
Tanjore District.
- 3.The Dean,
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M.S.RAMESH,J.

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