



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2022

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
AND**

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.A(MD)Nos.510 and 512 of 2022
and C.M.P.(MD) Nos.4606, 4607 and 4610 of 2022

Dr.M.Chellamuthu

... Appellant/Petitioner in both
theWrit Appeals

Vs.

1.The Gandhigram Institute of Rural
Health and Family Welfare Trust,
Rep. by its Chairman,
Soundaram Nagar,
Gandhigram Post,
Dindigul District.

2.The Director,
The Gandhigram Institute of Rural
Health and Family Welfare Trust,
Soundaram Nagar,
Gandhigram Post,
Dindigul District.

3.Dr.S.Seethalakshmi,
The Director,
The Gandhigram Institute of Rural
Health and Family Welfare Trust,
Soundaram Nagar,
Gandhigram Post,
Dindigul District.

...Respondents in both
the Writ Appeals/ Respondents

Prayer in WA(MD) .No. 510 of 2022: Writ Appeals filed under Clause 15 of the Letters Patent, to set aside the order dated 08.03.2022 in W.P(MD)Nos.9829of 2021 and allow the Writ Appeals.

Prayer in WP(MD) . 9829/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ, order or direction, more particularly in the nature of a WRIT OF CERTIORARI calling for the records pertaining to the impugned order of the 2nd respondent in REF GIRH/ESTT/2019-20/0863 dated 28.01.2020 and quash the same

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

**Prayer in WA(MD). 512/ 2022 :**

Writ Appeal filed under Clause 15 of Letters Patent, praying begs to file this Writ Appeal against the order dated 08.03.2022 made in W.P. (MD). No. 12094 of 2021 on the file of the hon'ble Court

Prayer in WP(MD). 12094/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court S-2. to issue a writ, order or direction, more particularly in the nature of a Writ of Certiorari calling for the records pertaining to the impugned order of the 2nd respondent in REF GIRH/ESTT/2021-2022/0139 dated 01.07.2021 and REF GIRH/ESTT/2021-2022/0173 dated 09.07.2021 and quash the same .

For Appellant in both : Mr.A.R.Jeyarhuthran
the appeals
For Respondents in : Mr.V.Karthikeyan
both the appeals for M/s.V.Vijay Shankar

COMMON JUDGMENT

(Judgment of the Court was delivered by S.S.SUNDAR, J.)

These Writ Appeals have been preferred as against the common order dated 08.03.2022, made in W.P(MD)Nos.9829 and 12094 of 2021 by learned Single Judge, by dismissing the above writ petitions.

2. Brief facts that are necessary for the disposal of these Writ Appeals are as follows:-

2.1 The appellant is a Ph.D. Doctorate in Social Work having other degrees like Bachelor of Development Administration, P.G. Decree in Social Work, P.G. Diploma in Counseling, M.A., Sociology, M.Phil., Sociology and P.G. Diploma in Health Promotion and education. The appellant was appointed as a Teaching Assistant in the first respondent Trust, which was established in the year 1964 with the funding of non-Government Organization.

2.2 A charge memo and suspension order was issued by the second respondent against the appellant. The appellant challenged the charge memo dated 13.11.2019 in W.P.(MD)No.112 of 2020 on the ground that it is a predetermined one. While granting interim stay, this Court observed that the impugned charge memo is not proper and it expresses a view on the merits of charges against the appellant. The appellant filed W.P.(MD) No.116 of 2020, challenging the order of suspension, which was disposed of with certain directions. Unfortunately, the appellant was not reinstated for the reasons assigned by the second respondent.

2.3 When W.P.(MD) No.112 of 2020 was pending and the order of stay was in force, the second respondent recalled the charge memo

petition,

grounds raised by the appellant.

vengeance and that the proceedings are initiated with malafides.



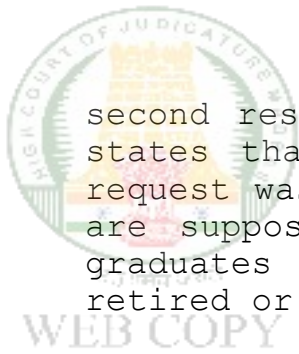
of a fair opportunity to defend the charges.

6. This Court is unable to find any substance in any of the submissions made by learned counsel for the appellant. The allegations levelled by the appellant against the Director are not substantiated and this Court is unable to find any reason to sustain any of the allegations so as to describe the disciplinary proceedings against the appellant as one tainted with malafide. The first charge memo issued against the appellant was questioned earlier mainly on the ground that the charge memo indicates the pre-determination of the establishment against the appellant and therefore, it is vitiated. This Court also granted interim stay by making specific observations that the charge memo is not proper and the same indicates a final decision on the proof of charges. Therefore, it is to avoid a technical hurdle the second charge memo was issued. Having regard to the specific circumstances under which present charge memo is issued, this Court is unable to find any lack of bonafides in the impugned charge memo, which contains specific charges. This Court finds no valid reason to quash the second charge memo. Learned Single Judge after considering the facts and legal aspects with regard to the specific challenge to the second charge memo dismissed the Writ Petition.

7. As regards the appointment of enquiry officer, who was required to carry forward the disciplinary proceedings, no special reason for challenge is put forth. The appellant has raised some grounds, challenging the appointment of the presenting officer. He makes an attempt to challenge the appointment of enquiry officer on the basis of a few allegation, which are not germane to his grievance expressed. Therefore, learned Judge has rightly dismissed the said Writ Petition also. In view of the above, this Court finds no merits in these Writ Appeals filed.

8. After dismissing the Writ Petitions, learned Single Judge also issued directions to the respondents to dispose of the disciplinary proceedings within a period of three months from the date of receipt of a copy of that order. After noting non-cooperation for completing the disciplinary proceedings by the appellant, a specific direction was also issued to the appellant to cooperate for the early disposal of the enquiry proceedings and the consequences to follow, if the appellant refuses to cooperate.

9. Regarding the submission of the appellant that he should be given permission to engage a retired or senior employee to assist him in defending the disciplinary proceedings, the appellant has not made any specific request for that, while dismissing the Writ Petitions. Since a request is made and it was not dealt with by learned Single Judge in the common order made in the Writ Petitions, this Court directs the respondents to consider the request of the appellant, seeking assistance of a retired or senior employee in defending his case. Though, this request was again rejected by the



second respondent on 02.05.2022, learned counsel for the appellant states that the Writ Petitions were dismissed on 08.03.2022. The request was rejected mainly on the ground that all the persons, who are supposed to participate in the domestic enquiry are not law graduates and hence, it is not necessary to seek assistance of a retired or senior employee to the appellant during the enquiry.

10. The reasons assigned by the second respondent to reject the representation of appellant for getting assistance of retired or senior employee is not proper. Though it is pointed out that the appellant requests for getting the assistance of an advocate during the department proceedings was rejected long back, this Court finds some justification in the said decision in the absence of specific provision in the Service Rules. However, the request for engaging the assistance of a retired employee or senior employee during the course of domestic enquiry can be considered, if it is not going to cause any hindrance to the respondents to conclude the enquiry proceedings within a reasonable time. However, the request of the appellant for engaging the assistance of retired employee or senior employee still be rejected on merits for valid grounds. Hence, it would be open to the respondents to consider the representation of the appellant for assistance during enquiry afresh in the light of the above facts and the specific grievance of the petitioner and it is open to the enquiry officer to decide whether such permission can be granted having regard to several circumstances, so that the enquiry against the appellant will be completed in a fair manner.

11. The enquiry officer is directed to complete the enquiry proceedings within a period of four weeks from the date of receipt of a copy of this order. The respondents shall pass appropriate orders after getting the report from the enquiry officer and after affording sufficient opportunity to the appellant within a period of twelve weeks from the date of getting the report. When the copy of enquiry report along with the second show cause notice is served to the appellant, the appellant is directed to send his explanations within a period of two weeks from date of receiving the second show cause notice.

12. With the above observations and directions, these Writ Appeals are dismissed. No Costs. Consequently, connected Miscellaneous Petitions are also dismissed.

Sd/-

Assistant Registrar(CO)

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/ /2022

Sub Assistant Registrar(CS)

sj



+2 CC to M/s.AR. JEYARHUTHRAN, Advocate (SR-25300[F],25298 dated 13/06/2022)

+1 CC to M/s.V. KARTHIKEYAN, Advocate (SR-25692[F] dated 14/06/2022)

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