



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.03.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.12592 of 2019

W.M.P(MD).Nos.9360 & 9361 of 2019, 2925 of 2022

V.Veluchami

... Petitioner

Vs.

1.The Director of Medical and Rural Health Services,
359, Anna Salai,
DMS Complex,
Teynampet, Chennai-600 006.

2.The Joint Director of Health Services,
Old District Head Quarters Hospital Campus,
Sivagangai-630 561

3.Dr.M.Vijayan Mathamadaki
Joint Director of Health Services
(Under Suspension)
245/1, Sivagangai Road,
M.Malampatti, Melur-625 706,
Madurai District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records relating to impugned Charge Memorandum issued by the second respondent vide Na.Ka.1500/Nil/2018 dated 12.10.2018 and quash the same and consequentially direct the 1st and 2nd respondents to promote the petitioner to the post of Office Superintendent in pursuance of the panel of Assistants to be promoted to the post of Office Superintendent for the year 2019-2020.

For Petitioner : Mr.D.Shanmugaraja Sethupathi
For Respondents : Mr.M.Ramesh,
Government Advocate
for RR1 and 2
Mr.B.Saravanan for R3

ORDER

The charge memo issued in proceedings dated 12.10.2018 is under challenge in the present writ petition.

2. The petitioner was working as Assistant in the office of the second respondent. Two charges are framed against the petitioner. The first charge reveals that while he was working as Assistant in the office of the Joint Director of Health Services, he has intentionally lost the service records of one Mr.R.Balasubramanian, Physiotherapist. It is stated that there was a tampering of record. The other charge states that in view of the loss of service records,



the Pay Commission benefits were unable to be settled in favour of the said Balasubramanian. Annexure-II to the charge memo provides the statement of allegations. Annexure-III denotes list of documents. Thus, there is no infirmity as such in respect of the charge memorandum issued.

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3. The learned counsel for the petitioner drew the attention of this Court with reference to the proceedings of the Joint Director, wherein it is stated that the service records of the said Balasubramanian was already sent to the office. When there is an order by the Joint Director acknowledging the service records of the said Balasubramanian, there is no reason to issue the charge memo against the petitioner.

4. This Court is of the opinion that merely based on one letter issued by the Joint Director, High Court cannot form an opinion that the allegations are in-correct or not established. There are several allegations which are to be inquired into with reference to all the records. All these aspects are to be considered by the Competent Authority only by conducting an enquiry. Contrarily, High Court cannot form an opinion that the delinquent official is not responsible for the allegations raised in the charge memo. Further, High Court cannot conduct an enquiry in this regard with reference to the explanations submitted by the writ petitioner.

5. Hence, the respondents are directed to appoint an Enquiry Officer, proceed with the departmental disciplinary proceedings, conclude the same by following the procedures contemplated and pass final order as expeditiously as possible preferably within a period of four months from the date of receipt of a copy of this order. The petitioners are directed to co-operate for early disposal of the departmental disciplinary proceedings. They shall not seek any adjournment of the enquiry proceedings. In the event of any non-co-operation on the part of the petitioner, the same shall be recorded in the proceedings itself. In such circumstances, the petitioners are not entitled to seek any relief on the basis that the departmental disciplinary proceedings are not disposed of.

6. Accordingly, the Writ Petition stands disposed of. However, there shall be no order as to costs. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (W)

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Sub Assistant Registrar (CS)



To

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+1 CC to M/s.D.SHANMUGARAJA SETHUPATHI, Advocate (SR-12128[F]
dated 15/03/2022)

W.P.(MD) No.12592 of 2019

11.03.2022

SB(CO)

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