



W.P.No.33676 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.33676 of 2012

Dr.R.Kathirvel

... Petitioner

Vs.

1.The State of Tamilnadu,
rep. By its Secretary to Government,
Health and Family Welfare Department,
Fort St.George,
Chennai 600 009

2.The Director of Public Health and
Preventive Medicine,
Chennai 600 006

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Mandamus directing the respondents to consider the case of the petitioner for notional promotion to the post of Civil Surgeon and consequently refix his pay and revise his pension in accordance with law.

For Petitioner : No appearance

For Respondents : Mr.L.S.M.Hasan Fizal,
Additional Government Pleader



W.P.No.33676 of 2012

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ORDER

This writ petition has been filed for direction to the respondents to consider the petitioner's representation seeking for notional promotion to the post of Civil Surgeon and to refix his pay and revise his pension.

2. The petitioner was selected to the post of Assistant Surgeon in Tamilnadu Medical Service through TNPSC on merits and entered into service on 15.12.1984. Thereafter, he was served with two charge memos. He submitted his explanation on 18.10.1997. Enquiry was conducted and by GO(D).No.845 dated 17.08.2004, entire charges were dropped against the petitioner. Subsequently, one of the patients died on 07.03.1997 and as such he was placed under suspension and pursuant to the same, the petitioner was issued another charge memo dated 18.07.1997. He submitted explanation and thereafter his suspension was revoked by an order dated 02.12.1997. After completion of enquiry, the petitioner was imposed punishment of stoppage of increment for a period of three years with cumulative effect by order dated 15.12.2004. Aggrieved by the same, the petitioner also preferred revision and the



W.P.No.33676 of 2012

same was also rejected. In pursuant to both the charge memos, the petitioner was not considered for promotion to the post of Civil Surgeon.

3. On perusal of the counter filed by the respondents, revealed that the disciplinary action was initiated against the petitioner under Rule 17(b) of Tamil Nadu Civil Service (Discipline & Appeal) Rules by the charge memo dated 18.07.1997. Though his suspension order was revoked, reinstated into service and posted to Government Primary Health Centre, Mudisnagar, Coimbatore, the petitioner failed to join duty. Further, he was transferred and posted as Assistant Surgeon at Primary Health Centre, Mallasamudram, Namakkal Health Unit District. After completion of enquiry, the petitioner was imposed with punishment of stoppage of increment for a period of 3 years with cumulative effect for the proven charges. As per rule 4(a) of General Rules for the Tamil Nadu State and Subordinate Services, when disciplinary action is pending against the individual under rule 17(b) of Tamilnadu Civil Service (Discipline & Appeal) Rules, the name of an individual should be passed over till the finalisation of the disciplinary proceedings



W.P.No.33676 of 2012

initiated against him. While preparing the panel for the post of Civil Surgeon in the year 2000-01, the two disciplinary proceedings were pending against the petitioner. Therefore the petitioner's name was passed over in that panel. Thereafter, the petitioner was imposed with punishment of stoppage of increment for a period of three years with cumulative effect. Therefore, the currency of punishment began on 26.02.2005 and concluded on 30.09.2008 overlapping the date of his retirement. Therefore, the petitioner was not considered for the panel for the post of Civil Surgeon for the year 2008.

4. Therefore, the request made by the petitioner cannot be considered. As such, this writ petition is devoid of merits and liable to be dismissed. Accordingly, this writ petition is dismissed. There shall be no order as to costs.

08.09.2023

Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
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W.P.No.33676 of 2012

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To

1. Secretary to Government,
The State of Tamilnadu,
Health and Family Welfare Department,
Fort St.George,
Chennai 600 009
2. The Director of Public Health and
Preventive Medicine,
Chennai 600 006
3. The Government Advocate,
High Court, Madras.

G.K.ILANTHIRAIYAN, J.



WEB COPY



W.P.No.33676 of 2012

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W.P.No.33676 of 2012

08.09.2023