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W.P.Nos.34586 of 2016 & 11253 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.Nos.34586 of 2016 & 11253 of 2014  
and M.P.Nos.1 and 2 of 2014

W.P.No.34586 of 2016

N.Mahendran

.. Petitioner

VS

1.The Director of Public Health and Preventive Medicine,  
Teynampet, Chennai – 6.

2.The Deputy Director of Health Service,  
Erode.

3.The Revenue Divisional Officer,  
Gobichettipalayam,  
Erode District.

4.The Block Medical Officer,  
Primary Health Center, Thalavadi,  
Erode District.

.. Respondents

W.P.No.11253 of 2014

N.Mahendran

.. Petitioner

VS

1.The Revenue Divisional Officer,  
Gopichettipalayam, Erode District.

2.The Director of Public Health and Medicine,  
Teynampet, Chennai – 6.

3.The Deputy Director of Health Service,  
Erode.

.. Respondents



W.P.Nos.34586 of 2016 & 11253 of 2014

Prayer in W.P.No.34586 of 2016: Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records of the relating to the proceedings issued by the 1<sup>st</sup> respondent in Na.Ka.No.2070/2014AA3 dated 07.03.2014 and to quash the same and consequently direct the 2<sup>nd</sup> and 3<sup>rd</sup> respondents to regularize the service of the petitioner in the post of Junior Assistant within the time frame to be fixed by this Court.

Prayer in W.P.No.11253 of 2014: Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records relating to the proceedings issued by the 1<sup>st</sup> respondent Na.Ka.No.2070/2014AA3 dated 07.03.2014 and to quash the same and consequently direct the 2<sup>nd</sup> and 3<sup>rd</sup> respondents to regularize the service of the petitioner in the post of Junior Assistant within the time frame to be fixed by this Court.

For Petitioner : Mr.K.Sathish Kumar  
(in W.P.No.34586 of 2016)  
Mr.G.Sankaran  
(in W.P.No.11253 of 2014)

For Respondents : Mr.T.K.Saravanan  
Government Advocate  
(in both writ petitions)

### COMMON ORDER

The issues raised in both the writ petitions are intricately connected with each other and, therefore, a common order is passed.

2. The petitioner / N.Mahendran has filed W.P.No.11253 of 2014 in the nature of a certiorarified mandamus seeking records



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relating to the proceeding issued by the first respondent, Revenue Divisional Officer, Gopichettipalayam, Erode District, dated 07.03.2014 to quash the same.

3. By the said proceedings dated 07.03.2014, the Revenue Divisional Officer had cancelled an earlier certificate given by the Tahsildar at Gopichettipalayam, by which certificate dated 20.01.2010, the Tahsildar, had certified that the family of the petitioner were in indigent circumstances and that no body was in any government service and that they did not have any movable or immovable properties. This certificate had been issued on the information supplied by the petitioner herein. This certificate was issued consequent to the fact the father of the petitioner, R.Navaneedhan, who was working as Health Inspector had died on 14.03.2000 and the petitioner had sought such certificate to seek employment on compassionate basis.

4. In the affidavit filed in support of the writ petition, it had been stated that his father was working as Health Inspector in Director of Public Health and Medicine at Gopichettipalayam and died on 14.03.2000. He also stated that his mother was separated from the family and after the death of his father he had made an



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application seeking employment on compassionate basis on 21.07.2000. After about of thirteen years, an order of appointment was issued on 18.01.2013 appointing the petitioner to the post of Junior Assistant.

5. Thereafter, the Revenue Divisional Officer at Gopichettipalayam had issued a show-cause notice dated 12.06.2013 calling upon the petitioner to explain as to why certificate had been issued by the Tahsildar certifying that the petitioner and his family members were in indigent circumstances should not be cancelled. It was stated in the show-cause notice that the petitioner had suppressed a very vital information that his mother was actually working in a Government service as Upgraded Assistant in Cooperative society at Gopichettipalayam and was drawing salary of Rs.11,298/- per month.

6. In the certificate which had been issued by the Tahsildar it had been very specifically stated that no body in the family were in Government service. In the affidavit, however, it had been stated that the mother had separated from the family and therefore it is to be presumed that nobody is working in Government service. Complaining that the certificate had been



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cancelled, writ petition has been filed seeking interference with such cancellation.

7. The same petitioner / M.Mahendran later filed in W.P.No.34586 of 2016 consequent to an order of dismissal from service passed by the first respondent therein, Director of Public Health and Preventive Medicine at Chennai. A charge memo had been issued stating that the petitioner had forwarded a certificate issued by the Tahsildar, Gopichettipalayam which had been procured by furnishing false information and had also obtained a job as Junior Assistant on compassionate basis. It was stated that the said certificate had been cancelled by the Revenue Divisional Officer, since the family was not in indigent circumstances as the mother of the petitioner was employed in a Cooperative society as Upgraded Assistant and drawing salary of more than Rs.11,298/- per month.

8. On the basis of this particular fact, charge memo was issued and enquiry was conducted and thereafter, the second respondent, Deputy Director of Health Services, had passed an order of dismissal from service. The petitioner had filed an appeal and the appeal was dismissed by the first respondent, Director of



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Public Health and Preventive Medicine, Chennai. Complaining of these orders W.P.No.34586 of 2016 has been filed.

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9. Counter affidavits have been filed in both the writ petitions but since W.P.No.34586 of 2016 is practically an extension of the facts as stated in the first writ petition, let me refer to the counter affidavit filed therein.

10. It had been stated that the petitioner was able to furnish an integrated consolidated certificate certifying that his family was in indigent circumstances. It was stated that this particular certificate was issued only on the basis of information furnished by the petitioner. Among other informations, it had also been stated by the petitioner that no body in the family was in government service.

11. It was however stated in the counter affidavit that such statement is false since, the mother of the petitioner was working as Upgraded Assistant in the Agricultural Co-operative Department at Gopichettipalayam and was drawing Rs.11,298/- even at the time of death of his father.



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12. In view of these facts, an enquiry was conducted and the charge was held proved and thereafter, the second respondent on examination of the entire facts, had passed an order of removal from service. This order was also confirmed by the first respondent. It had been stated in the counter affidavit that the procedure during the enquiry was followed meticulously and the petitioner was given every opportunity and there was no denial of provision of such opportunity.

13. It had been further stated that the facts spoke for themselves. The certificate issued by the Tahsildar had certified that the petitioner's family was in indigent circumstances. However, it was obtained by suppressing a vital information namely, that his mother was actually employed as Upgraded Assistant and was drawing Rs.11,289/- per month. It was therefore contended in the counter affidavit that since procedure had been followed, the judicial review would not lie on the punishment imposed and that therefore writ petitions should be dismissed.

14. Learned counsel for the petitioner complained that the Integrated Certificate issued by the Tahsildar had been cancelled



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without notice to the petitioner herein.

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15. However, it is seen from the affidavit filed in support of W.P.No.11253 of 2014 that a show-cause notice was actually been issued to the petitioner herein on 12.06.2013 seeking explanation as to how such a certificate was obtained by him and why information regarding employment of the mother was suppressed.

16. Learned counsel for the petitioner also stated that after being in employment, the punishment which was imposed was little too harsh and, therefore, it was contended that this Court should interfere with the same.

17. The primary contention of the learned counsel was that the mother, though working as stated by the respondents in a Cooperative Department and drawing salary of Rs.11,289/-, was living separately from the father. The fact remains that the marital relationship still subsisted. The fact remains that the petitioner was their son. She might have separated from the father but that does not mean that she had separated and removed herself from the entire family. The petitioner claims that he was brought up by the father but still, the bond of the mother and son remains and the



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petitioner could have furnished this particular information and there should have been an honest disclosure about this particular fact.

18. On the side of the respondents, it had been contended that once information had been furnished suppressing a vital information, any certificate obtained there from, will necessarily have to be cancelled and any benefit obtained consequent to issuance of such certificate will have to be interfered with and the benefit should not be sustained to continue. It is therefore contended that the order of removal of service was the correct punishment imposed on the petitioner herein. It was also pointed out on behalf of the respondents that the petitioner had not complained about lack of opportunity being granted during the enquiry process. It was therefore, contended that writ petitions should be dismissed.

19. I have carefully considered the arguments advanced and perused the materials available on record.

20. This is a case where the petitioner had, for some reason, suppressed a vital information and had obtained the certificate declaring that not only him, but the whole family was,





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time, at least, he could have disclosed that particular information to the Tahsildar and could have stated that she had separated from the family and could have obtained a further certificate or endorsement on those lines. But the petitioner sought to put this particular certificate obtained through suppression to his advantage and obtained a job as Junior Assistant in the respondent office.

22. I am not able to understand as to how he could have ever gone to his office knowing that it was obtained on the basis of a false certificate. The entire issue should have rankled him but still he continued to work. He continued to draw salary. That salary is paid from and out of the public exchequer and salary is part of the taxes paid by the general public. Naturally, the petitioner does not deserve any sympathy at all.

23. However, the respondents, even though the facts stated on the petitioner, had conducted an enquiry. Charges under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules were framed against the petitioner herein. Opportunity was granted and there is no complaint that opportunity was not granted. The enquiry was conducted. The enquiry report held that



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the charges were established and thereafter the second respondent had taken a conscious decision to pass an order of removal from service against the petitioner herein.

24. This order had been passed and had been confirmed in an appeal filed by the petitioner before the first respondent. There is no complaint again, even during the course of the arguments, that the procedure adopted was not proper. The fact that the mother living separately does not come to the advantage of the petitioner since, the bondage of mother and son subsisted. That can never be frustrated by any court of law. The mother can separate herself from the father of the petitioner but even then merely living separate does not mean that the marital relationship has been severed. It still subsists and it still subsisted on the date of the death of his father. There is no reason to interfere with the impugned order in either of the two writ petition.

25. In view of the same, both the writ petitions stand dismissed. No costs. Connected miscellaneous petitions are closed.

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Index:Yes  
Neutral Citation:Yes  
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C.V.KARTHIKEYAN,J.

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