



W.P.No.12743 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2023

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.12743 of 2020

and

W.M.P.Nos.15741 and 15744 of 2020 and 3976 of 2021

J.Senthamaraikannan

... Petitioner

Vs.

- 1.The Secretary,
Health and Family Welfare Department,
Secretariat,
Fort St.George,
Chennai – 600 009.
- 2.The Director of Public Health and Preventive Medicine,
359, Anna Salai,
DMS Complex,
Teynampet,
Chennai – 600 006.
- 3.The Deputy Director of Health Service,
Collectorate Campus,
Salem,
Salem District.



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4.The Deputy Director of Medical Services (TB),
NTEP – Room No.413,
Collectorate Buildings,
Salem – 636 001.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in pursuant to the impugned order of punishment issued by the 3rd respondent in proceedings Na.Ka.No.2025/E2/2009 dated 17.12.2014 and the impugned appellate order issued by the 2nd respondent in proceedings R.No.028161/DA/S3/15 dated 23.05.2017 and to quash these orders and to restore the increments with all consequential service and monetary benefits.

For Petitioner : Mr.A.Saravanan

For Respondents : Mr.S.Nanmaran,
Special Government Pleader

ORDER

The Writ Petition has been filed against the proceedings dated 17.12.2014 in Na.Ka.No.2025/E2/2009 issued by the 3rd respondent and the proceedings dated 23.05.2017 in R.No.028161/DA/S3/15 issued by the 2nd respondent and consequently, restore the increments with consequential service and monetary benefits.



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2. The learned counsel for the petitioner submitted that the petitioner was appointed as a Pharmacist on 16.08.2002 and thereafter, he was transferred to Government Primary Health Centre, Pachaimalai through an order of transfer dated 24.09.2013. It is contended by the learned counsel for the petitioner that the said order was not communicated to him and he was orally informed with the said transfer. Thereafter, he had made a representation dated 26.09.2013 to the 2nd respondent for cancellation of his transfer order. By considering the said representation, the 2nd respondent had cancelled the earlier transfer vide order dated 16.12.2013 and subsequently, he was granted with a fresh transfer order, posting him at the Government Primary Health Centre, Tharamangalam and as per the said transfer order, the petitioner had immediately joined at Tharamangalam.

3. The learned Special Government Pleader appearing for the respondents submitted that as per the charge-memo dated 06.01.2014 issued by the 3rd respondent, the petitioner was relieved from Salem on 20.09.2013, however he had refused to receive the transfer order for three months and



remained unauthorizedly absent. All these charges of disobedience were found to be proved and the petitioner was imposed with the punishment of stoppage of increment for a period of six months, without cumulative effect. The petitioner has challenged the same by stating that the earlier transfer order was not served on him and hence, there cannot be any act of disobedience on his part. However, the learned Special Government Pleader appearing for the respondents submitted that the said transfer order was served upon the petitioner, but the petitioner had refused to receive the same, which was the charge framed against him. The petitioner has filed an appeal, which was also rejected.

4. The petitioner could have submitted a representation dated 26.09.2013 stating that it was not possible for him to join at Pachaimalai and that his personal reason should be considered for cancellation of the transfer order. The petitioner could not have worked either in Salem or in Pachaimalai between the period 23.09.2013 and 16.12.2013, as he was relieved from Salem. Hence, it cannot be contended by the petitioner that he was not aware of the earlier



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transfer order, until he had received the order of cancellation on 16.12.2013.

The petitioner ought to have obeyed the earlier transfer order and joined in the said place and thereafter, he could have even applied leave and then submit his representation. However, the petitioner did not choose to do so. Hence, I do not find any infirmity in respect of the order passed by the respondents.

5. Accordingly, the Writ Petition stands dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

17.11.2023

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

1.The Health and Family Welfare Department,
Secretariat, Fort St.George, Chennai – 600 009.

2.The Director of Public Health and Preventive Medicine,
359, Anna Salai, DMS Complex,
Teynampet, Chennai – 600 006.

3.The Deputy Director of Health Service,

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Collectorate Campus, Salem, Salem District.

4. The Deputy Director of Medical Services (TB),
NTEP – Room No.413, Collectorate Buildings, Salem – 636 001.

R.N.MANJULA, J.

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