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W.P.No.24296 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2023

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.24296 of 2023

Dr.K.B.Sivaprakasam

... Petitioner

Vs.

1.The Secretary to Government,
Health and Family Welfare,
Fort St. George, Chennai – 600 009.

2.The Director of Public Health and
Preventive Medicine (DPH & PH),
359, Anna Salai, Chennai – 6.

3.The Joint Director (Training)
O/o. DPH & PM,
359, Anna Salai, Chennai – 6.

4.The Additional Director of Public Health
and Preventive Medicine,
O/o. DPH & PM,
359, Anna Salai, Chennai – 6.

5.The Deputy Director of
Health Services, Salem.

6.The Regional Administrative
Medical Officer, ESI Scheme,
Aavin Diary (Opposite)
Thalavaipatty, Salem – 636 005.

... Respondents



W.P.No.24296 of 2023

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the 2nd respondent to conclude the disciplinary proceedings and pass final orders pursuant to the enquiry report submitted by the Enquiry Officer, by taking into consideration the objections raised by the petitioner to the Enquiry Report, dated 24.08.2017, as per the order, dated 19.08.2019, in W.P.No.15169 of 2019 and G.O.(Ms).No.81, Human Resource Department, dated 04.08.2022, based on petitioner's representation dated 14.07.2023 in accordance with law.

For Petitioner : Mr.K.Shakesphere

For Respondents : Mr.S.Arumugam
Government Advocate

ORDER

This writ petition has been filed to direct the 2nd respondent to conclude the disciplinary proceedings and pass final orders pursuant to the Enquiry Report submitted by the Enquiry Officer, by taking into consideration the objections raised by the petitioner to the Enquiry Report, dated 24.08.2017, as per the order, dated 19.08.2019, in W.P.No.15169 of 2019 and G.O.(Ms).No.81, Human Resource Department, dated 04.08.2022, based on petitioner's representation dated 14.07.2023 in accordance with law.



W.P.No.24296 of 2023

WEB COPY

2.It is the case of the petitioner that, while he was working as Assistant Surgeon in Government Primary Health Centre, Muttal Village, Attur Taluk, Salem District, he was served with a charge memo dated 29.08.2016 by the 3rd respondent for certain irregularities committed by him. According to the petitioner, he has submitted his explanation to the said charge-memo on 26.09.2016. An enquiry was also contemplated and the Enquiry Officer had also submitted his Enquiry Report, and the petitioner has also submitted his objections to the Enquiry Report, dated 24.08.2017. However, no final orders were passed. Therefore, the petitioner approached this Court by way of filing a writ petition in W.P.No.15169 of 2019, wherein, this Court, by its order dated 19.08.2019, directed the respondents to pass final orders pursuant to the Enquiry Report, within a period of four weeks from the date of receipt of a copy of the order. However, even thereafter, no final orders were passed. In this regard, the petitioner has also submitted his representations to the respondents on 14.07.2023 and 03.08.2023. Even the representations of the petitioner have not been considered. Hence, the writ petition.



W.P.No.24296 of 2023

WEB COPY

3.Heard the learned counsel for the petitioner and Mr.S.Arumugam, learned Government Advocate, who takes notice for the respondents.

4.This Court, in the earlier writ petition in W.P.No.15169 of 2019, has passed the following order on 19.08.2019 :

“4.Since the prayer as sought for in this Writ Petition is limited in scope, this Court in the fitness of things is of the view that the same can be disposed of, as under:

(i) The second respondent/disciplinary authority is directed to pass final orders pursuant to the enquiry report submitted by the enquiry officer, by taking into consideration the objections raised by the petitioner to the enquiry report dated 24.08.2017. The second respondent shall pass final orders in the disciplinary proceedings within a period of four weeks from the date of receipt of a copy of this Order. No costs. Consequently, connected miscellaneous petition is closed.”

5.Despite the positive directions of this Court, so far, the respondents have not passed final orders in the disciplinary proceedings



W.P.No.24296 of 2023

pending against the petitioner pursuant to the charge-memo dated

29.08.2016. In such view of the matter, the 2nd respondent/Disciplinary

Authority is directed to conclude the disciplinary proceedings pending against the petitioner and pass final orders, on merits and in accordance with law, within a period of one month, failing which, the inaction on the part of the respondents will invite legal consequences.

6. With the above direction, this writ petition is disposed of. No costs.

18.08.2023

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Internet : Yes

Index : Yes / No

Neutral citation : Yes / No

Speaking order / Nonspeaking order

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WEB COPY



W.P.No.24296 of 2023

N. SATHISH KUMAR, J.
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W.P.No.24296 of 2023

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