



WEB COPY



Writ Appeal No.3595 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 03.07.2023

CORAM

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

**Writ Appeal No.3595 of 2019
and C.M.P.No.23113 of 2019**

The Government of Tamil Nadu,
rep. By its Secretary to Government,
Health and Family Welfare Department,
Fort St.George, Chennai – 600 009. ... Appellant/ respondent

Vs

K.Devaki ... Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Pattern to set aside the order dated 31.10.2011 made in W.P.No.19831 of 2008 and allow this writ appeal.

For Appellant : Mr.M.Murali
Government Advocate

For Respondent : No appearance

JUDGMENT

(Judgement of the Court was made by Mr.R.SURESH KUMAR.,J.)

This Writ Appeal has been directed against the order passed by the Writ Court dated 31.10.2011 made in W.P.No.19831 of 2008.



2. The respondent was an employee under the appellant

Department against whom charge memo has been framed that was under challenge before the Writ Court.

3. The learned single Judge, who dealt with the said matter had stated the reasons that already a co-delinquent against whom also similar charges were framed and that was under challenge in W.P.No.17797 of 2008, which was allowed by the very same Judge by order dated 28.04.2009 in the matter of ***R.Pavirusan Vs.The Government of Tamil Nadu and Anr.*** In fact, that order passed by the Writ Court was challenged before the Division Bench by way of intra-court appeal in W.A.No.1572 of 2009 and the Division Bench also having upheld the order of the learned single Judge, had dismissed the Writ Appeal.

4. Insofar as the present respondent is concerned, who is a co-delinquent had also approached the Writ Court by filing the writ petition in W.P.No.19831 of 2008 challenging the said charge memo. The learned single Judge, who dealt with the matter having taken note of the earlier order passed by himself in the Writ Court allowing the writ petition filed by the co-delinquent, which was also confirmed by the Division Bench as



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stated supra, was pleased to allow this writ petition also by order dated 31.10.2011, against which, the present writ appeal has been filed.

5. We have heard the learned Government Advocate appearing on behalf of the appellant. Though the notice has not been served on the respondent/employee, in view of the order that is going to be passed in this writ appeal notice to the respondent is dispensed with.

6. The learned Government Advocate submitted that the said writ appeal filed by the Department was dismissed on the ground that the co-delinquent was permitted to retire from service and therefore, it had become infructuous and accordingly, it was dismissed.

7. We have considered the said submission made by the learned Government Advocate appearing on behalf of the appellant. Insofar as this case is concerned, it makes no different as this respondent also had attained superannuation and therefore, the question of conducting any enquiry against the retired employee at this juncture does not arise. Moreover, once the co-delinquent charge is quashed by the order of this Court, which has been confirmed by the Division Bench, there is no



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scope for conducting any enquiry against another delinquent independently. Therefore, on that ground we feel that the said order passed by the learned single Judge, which is impugned herein is to be accepted.

Accordingly, this writ appeal fails hence, it is dismissed. No costs.

Connected miscellaneous petition is closed.

(R.S.K.,J.) (K.B., J.)
03.07.2023

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No

mp

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



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