



W.P.(MD).No.13749 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.09.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.13749 of 2022

and

W.M.P(MD)No.9758 of 2022

Pandi

... Petitioner

Vs.

1.The Director,
Directorate of Medical and Rural Health Services,
359, Anna Salai, Sokkalingam Nagar,
Thenampet, Chennai-6.

2.The Joint Director,
Family Health Welfare Society,
"CMCHI Scheme",
Virudhunagar,
Virudhunagar District.

3.The Medical Officer,
Watrap Government Hospital,
Watrap,
Virudhunagar District.

4.The Nodal Officer,
"CMCHI Scheme",
Watrap Government Hospital,
Virudhunagar,
Virudhunagar District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the entire record pertaining to the impugned order of dismissal passed by the second respondent vide his proceedings in Oo.Mu.No.107/P-2022, dated 18.05.2022 (received by the petitioner only on 06.06.2022) and quash the same as illegal and consequently direct the second and third respondents to reinstate the petitioner into service and to further direct them to pay the benefit from 27.03.2022.

For Petitioner : Mr.P.M.Vishnuvarthanan

For Respondents : Mr.P.Thambidurai
Government Advocate

ORDER

The present writ petition has been filed for a Writ of Certiorarified Mandamus, calling for the entire record pertaining to the impugned order of dismissal passed by the second respondent vide his proceedings in Oo.Mu.No. 107/P-2022, dated 18.05.2022 (received by the petitioner only on 06.06.2022) and quash the same as illegal and consequently direct the second and third respondents to reinstate the petitioner into service and to further direct them to pay the benefit from 27.03.2022.



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2. Heard the learned Counsel for the petitioner and the learned Government Advocate for the respondents and carefully perused the materials available on record.

3. The petitioner was appointed as a Ward Manager pursuant to the G.O(Ms)No.127 of the Health and Family Welfare (EAP II/2) Department, dated 10.04.2012 in a consolidated pay of Rs.6,000/- as early as on 01.07.2015 and he is working thereat for the past more than seven years. The fourth respondent is the Nodal Officer, who has supervisory power over the petitioner. On 22.03.2022, within the whatsapp group of the third respondent Government Hospital administrated by the third respondent, certain exchange of messages happened between the third respondent and the petitioner. While so, the petitioner's father was admitted in a nearby Hospital for the treatment of Renal failure, namely, Vijaya Nursing Home, Sivakasi. The petitioner's father's health condition became worse and he had to attend his father's ill health under such emergency condition. As a result of which, he was not able to inform the respondents for seeking leave. However, on 23.03.2022, a charge memo came to be issued as against the petitioner by the third respondent and for the reason



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that the petitioner did not attend duty without information. Thereafter, immediately on the next day, 24.03.2022, the charge memo was further altered and an altered charge memo came to be issued by the third respondent and the same was served on the petitioner, wherein an additional charge that the petitioner circulated a message in the whatsapp group with an intention of threatening the officer concerned was also included. The petitioner submitted his explanation for the altered charge memo on 25.03.2022. On 27.04.2022, the petitioner was summoned to appear before the Joint Director of Health, Virudhunagar at 10.00 AM on 05.05.2022 for enquiry. The petitioner on 05.05.2022 promptly appeared before the second respondent for enquiry on which date, he was informed blatantly that on that day, without conducting any elaborate enquiry on the charges framed against the petitioner and by just communicating him that they were not satisfied with the explanation submitted by the petitioner, the enquiry was closed. Thereafter, on 18.05.2022, the impugned order of terminating the petitioner from service came to be passed.

4. A careful perusal of the impugned order would reveal that on 24.03.2022, 'a charge memo was served on the petitioner'. Thereafter, the Committee of the Chief Minister's Comprehensive Health Insurance Scheme



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Government Hospital, Watrap, without accepting the explanation submitted by the petitioner had resolved to terminate the service of the petitioner and on the basis of the said resolution with effect from 29.03.2022, the petitioner was terminated and thereafter, on 05.05.2022, an enquiry was conducted before the second respondent and on that basis, the petitioner was terminated from the post of Ward Manager in the Chief Minister's Comprehensive Health Insurance Scheme Government Hospital, Watrap. The various details of the impugned order itself would prove that the petitioner was not given with appropriate opportunity to submit his explanation either before the Committee of the Chief Minister's Comprehensive Health Insurance Scheme Government Hospital, Watrap or before the second respondent and unilaterally without appropriate enquiry, the Committee of the Chief Minister's Comprehensive Health Insurance Scheme Government Hospital, Watrap had resolved to remove him from service. Later, on 05.05.2022 in the name of enquiry the petitioner was called for and was informed that he is terminated from service. The entire exercise has been done without following any principles of natural justice and it is a clear case of violation of principles of natural justice. In view of the same, I am inclined to quash the impugned order and the punishment of termination which came to be passed, without calling for appropriate explanation, without giving



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opportunity and conducting an enquiry. That apart, the punishment of termination is shockingly disproportionate. Hence, I hereby quash the impugned order, dated 18.05.2022 and remand back the same before the second respondent, directing him to conduct an elaborate enquiry and give appropriate opportunity for the petitioner to defend the charge memo issued upon him and conclude the enquiry by appointing an enquiry officer and on the enquiry officer submitting a report, the same shall be furnished on the petitioner, an explanation may be called for. On the basis of which, appropriate orders may be passed in accordance with law, within a period of eight (8) weeks from the date of receipt of a copy of this order

5. This writ petition stands allowed, accordingly. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

14.09.2023

NCC : Yes
Index : Yes
Internet : Yes
BTR



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L.VICTORIA GOWRI, J.

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