



W.P(MD)No.16408 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.04.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.16408 of 2020

and

W.M.P.(MD)Nos.10473 & 13731 of 2020

A.Ayyammal

... Petitioner

Vs.

1.The State of Tamil Nadu

Rep. By its Secretary to Government,
Health & Family Welfare Department,
St.George Fort,
Secretariat,
Chennai-9.

2.The Director of Public Health & Preventive Medicine,
O/o. The Public Health & Preventive Medicine,
Chennai-6.

3.The Deputy Director of Health Services,
O/o. The Deputy Director of Health Services,
Theni,
Theni District.

4.The Block Medical Officer,
Government Primary Health Centre,
Gudalur,
Theni 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, to call for the records relating to the impugned punishment order passed by the second respondent in his proceedings in R.No.035236/DA/S2/2015, dated 20.05.2020 and quash the same as illegal and consequently, to direct the second respondent to promote the petitioner as Community Health Nurse notionally w.e.f the date on which her batch-mates were promotion with arrears and all other monetary benefits.

For Petitioner : Mrs.A.Ayyammal (petitioner)

For Respondents : Mr.K.Balasubramani
Special Government Pleader

ORDER

The petitioner appeared in person before this Court and she reiterated all the contentions set out in the affidavit filed in support of the writ petition.

2. The order impugned in the writ petition is liable to be set aside for the simple reason that the enquiry officer arrived at a finding of guilt even without enquiring the witnesses. It is true that the petitioner did not appear before the enquiry officer. The enquiry officer was entitled to set the delinquent exparte. But she could not have dispensed with the requirement of examining the witnesses and recording their statements.

3. I specifically called upon the respondents to produce the testimony of the witnesses enquired by the enquiry officer. Such statement have not been produced before this Court. This single point is sufficient to set aside the



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impugned order. The order impugned in the writ petition is set aside. The Writ Petition is allowed. It is for the second respondent to take a decision as to whether he should hold fresh enquiry on merits and in accordance with law or give a quietus to the issue. The second respondent will take a decision in this regard and communicate the same to the petitioner within a period of six weeks.

4. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

18.04.2023

Index : Yes / No
Internet : Yes/ No
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To

- 1.The Secretary to Government,
Health & Family Welfare Department,
St.George Fort,
Secretariat,
Chennai-9.
- 2.The Director of Public Health & Preventive Medicine,
O/o. The Public Health & Preventive Medicine,
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- 3.The Deputy Director of Health Services,
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G.R.SWAMINATHAN, J.

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