



WP.No.32743 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2024

CORAM

**THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER
KUMAR**

W.P.No.32743 of 2012

A.R.V.Kalidass

S/o.Velusamy

...Petitioner

Vs.

1.The Director

I.R.T.Perundurai Medical College & Hospital,
Perundurai, Erode District

2.The Deen

I.R.T.Perundurai Medical College & Hospital,
Perundurai, Erode District

3.K.Elango

Enquiry Officer,
I.R.T.Perundurai Medical College & Hospital,
Perundurai, Erode District

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of writ of Certiorarified Mandamus, praying to call for the records relating to the impugned order passed by the 1st respondent dated 21.12.2011 in proceedings No.367/Vu4/Sa.Po.Ni/2006, in confirming the order passed by the second respondent dated 13.06.2011 in proceedings No.62/E3/Sa.Po.Ni-Pe.Ma.Ka/2005, and quash the same as illegal and unsustainable and direct the respondents to refund the amount recovered from the petitioner illegally.

For Petitioner : Ms.V.Porkodi

For Respondents : Mr.C.Gouthamaraj for R1
Mr.E.Sundaram for R2

ORDER

This petition has been filed to question the proceedings No. 62/E3/Sa.Po.Ni-Pe.Ma.Ka/2005, dated 13.06.2011 passed by the 2nd respondent, imposing punishment of stoppage of increment for a period of 2 years with cumulative effect on the petitioner, as a measure of punishment in a disciplinary proceedings.



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2. Aggrieved by the said order, dated 13.06.2011, the petitioner preferred an appeal provided in terms of the relevant Rules before the 1st respondent. But, the 1st respondent rejected the said appeal by passing an order dated 21.12.2011 in proceedings No.367/Vu4/Sa.Po.Ni/2006. On a perusal of the said order passed by the 1st respondent, it is clear that the same is an unreasoned order and none of the grounds raised by the petitioner in the appeal were considered, rendering the order arbitrary in nature. On this ground alone, the said order passed by the 1st respondent, dated 21.12.2011, is liable to be set aside.

3. It is also brought to the notice of this Court by either side that in similar circumstances, a Division Bench of this Court remanded the matter back to the Appellate Authority for re-consideration and for passing a reasoned order in W.A.No.2863 of 2019, by judgment dated 03.10.2023. The learned counsel on either side also agreed for passing a similar order in the present writ petition as well. The operative portion of the order passed in the said writ appeal in paragraph No. 12 reads as under:



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"12. Therefore, for that reason the disciplinary proceedings cannot be set aside in entirety, as has been done by the learned single Judge in the order impugned. In the result, we dispose of the writ appeal with the following orders.

- The impugned order of the learned single Judge is modified to the extent that the order passed by the appellate authority dated 21.12.2011 is set aside.*

- Therefore, the appeal filed by the first respondent along with further input if any to be supplied by the first respondent can be reconsidered by the appellate authority ie., the present appellate authority, in view of the change over of the management of the appellant college, to whom the first respondent can present a fresh appeal along with a copy of the earlier appeal submitted to the erstwhile appellate authority and based on which, a fresh decision shall be taken and a reasoned order shall be passed by the appellate authority.*

- For the aforesaid reasons, within two weeks from the date of receipt of a copy of this order, the first respondent shall submit a fresh appeal against the order passed by the disciplinary authority imposing the punishment against him with a copy of the earlier appeal*



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submitted to the erstwhile appellate authority and the present appellate authority, Secretary to the Government, Health and Family Welfare Department, or Director of Medical Education, either of whom since may be the appellate authority, shall consider the fresh appeal to be submitted by the first respondent and after giving reasons for accepting the order rejecting the grounds raised by the first respondent, a reasoned order shall be passed in the said appeal within a period of eight weeks thereafter."

4. In the light of the above, the impugned proceedings No.No.367/Vu4/Sa.Po.Ni/2006 dated 21.12.2011, passed by the 1st respondent is set aside and the petitioner is granted liberty to file a fresh appeal within a period of 4 weeks from the date of receipt of a copy of this order by duly enclosing the appeal that was earlier filed by the petitioner before the Appellate Authority, within a period of four weeks from the date of the receipt of a copy of this order. On submission of such appeal by the petitioner, the Appellate Authority shall consider the same and dispose of the same within a further period of six weeks from the date of filing of the appeal by the petitioner by passing a reasoned order.

5. With the above observations and directions, this writ petition is



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disposed of No costs.

13.08.2024

vsn

Internet: Yes/No

Index: Yes/No

Speaking order: Yes/No

Neutral case citation: Yes/No

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