



WEB COPY

W.P.No.12241 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2024

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THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.No.12241 of 2021

Anjalai

... Petitioner

Vs.

1.The Secretary to Government of Tamilnadu,
Health and Family Welfare Department,
Secretariat, Chennai 600 009.

2.The Director,
O/o the Director of Public Health and
Preventive Medicine,
Chennai 600 006.

3.The Commissioner,
O/o.the Commissioner for Disciplinary Proceedings,
Kuralagam, Chennai.

4.The Inspector of Police,
Vigilance and Anti Corruption,
Kancheepuram.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records connected with the impugned order passed by the first respondent in G.O.(D).No.1322 dated 16.08.2019 and to quash the same.



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For Petitioner : Mr.M.Shankar

For Respondents : Mr.K.Tippu Sulthan, GA

ORDER

This Writ Petition has been filed for quashment of the impugned order passed by the first respondent in G.O.(D).No.1322 dated 16.08.2019.

2.Heard the learned counsel on either side and also perused the materials available on record.

3.The case of the petitioner herein is similar to that of the dispute which arose in the Civil Appeals in C.A.Nos.1763-1764 of 2022 (*the State of Karnataka and another Vs. Umesh*). In the said Civil Appeals, the Hon'ble Supreme Court has passed the following order:

“17. In the exercise of judicial review, the Court does not act as an appellate forum over the findings of the disciplinary authority. The court does not re-appreciate the evidence on the basis of which the finding of misconduct has been arrived at in the course of a disciplinary enquiry. The Court in the exercise of judicial review must restrict its review to determine whether: (i) the rules of nature justice have been complied with; (ii) the finding of misconduct is based on some evidence; (iii) the



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statutory rules governing the conduct of the disciplinary enquiry have been observed; and (iv) whether the findings of the disciplinary authority suffer from perversity; and (v) the penalty is disproportionate to the proven misconduct. However, none of the above tests for attracting the interference of the High Court were attracted in the present case. The Karnataka Administrative Tribunal having exercised the power of judicial review found no reason to interfere with the award of punishment of compulsory retirement. The Division Bench of the High Court exceeded its jurisdiction under Article 226 and trenched upon a domain which falls within the disciplinary jurisdiction of the employer. The enquiry was conducted in accordance with the principles of nature of justice. The findings of the inquiry officer and the disciplinary authority are sustainable with reference to the evidence which was adduced during the enquiry. The acquittal of the respondent in the course of the criminal trial did not imagine upon the authority of the disciplinary authority or the finding of misconduct in the disciplinary proceeding.”

4. The subject matter in issue is also similar to that of the Civil Appeals filed in C.A.Nos.1763-1764 of 2022, in which the aforesaid order has been passed.



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5. In the light of the order passed by the Hon'ble Supreme Court in the Civil Appeals as stated supra, this Writ Petition is dismissed. However, the Competent Authority is directed to give the pending dues to the petitioner within a period of two months from the date of receipt of a copy of this order.

No costs.

12.09.2024

vkrr

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

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- 2.The Director,
O/o the Director of Public Health and
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VIVEK KUMAR SINGH, J.

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