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W.A.No.1465 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2024

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR
AND
THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.A.No.1465 of 2021 and
C.M.P.Nos.9156 of 2021 & 7775 of 2022

R.Uma

... Appellant / Petitioner

..VS..

The Director of Medical Education,
Kilpauk,
Chennai – 600 010.

... Respondent / Respondent

Writ Appeal filed under Clause 15 of the Letters Patent to set aside the orders passed by this Court in W.P.No.11871 of 2021 dated 13.05.2021.

For Appellant : Mr.A.Mahesnath

For Respondent : Mrs.M.Sneha
Spl.Counsel for Health & Family Welfare

J U D G M E N T

(By D.Krishnakumar,J.,)

This Writ Appeal has been filed, challenging the order of the learned Single Judge dated 13.05.2021, by which the Writ Petition filed by the Writ Petitioner / Appellant herein filed against the issuance of show cause notice was disposed of, with a direction to consider the representation of the Writ Petitioner dated 30.04.2021.



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2. The minimum facts that are required for disposal of this case are that the Appellant herein was appointed as Staff Nurse in the Children Hospital, Egmore, Chennai in the year 2000 and was subsequently transferred to Government Ophthalmic Hospital, Egmore, Chennai in 2007. She had borrowed money from one Raja Venkatesh to meet out the medical expenses of her children, by executing a Promissory Note and handing over a blank cheque to the said Raja Venkatesh. According to the Appellant, the blank cheque was misused by the brother-in-law of Raja Venkatesh, with an intention to dishonor the cheque, which had resulted in initiation of private complaint under Section 138 of Negotiable Instruments Act, 1881 (in short 'The N.I.Act, 1881') against her. After a full-fledged trial in S.T.C.No.52 of 2016, the Court below, while imposing penalty under the N.I.Act, 1881, had also ordered to recovery of the amount on 27.02.2019 and the appeal filed against the said order was also dismissed. Aggrieved by the same, the Appellant has preferred a Criminal Revision Petition before the Madurai Bench of Madras High Court, Madurai and the same is pending.

3. It is the grievance of the Appellant that the order of conviction has given a rise to issuance of a show cause notice on her under Rule 17(c)(i)(1) of Tamil Nadu Civil Services (Discipline and Appeal) Rules (TNCS (D&A) Rules) in order to impose a



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major penalty of dismissal from service specified in Rule 8, apart from placing her under suspension under Rule 17(e) of TNCS (D&A) Rules.

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4. Learned counsel for the Appellant has submitted that the show cause notice under Rule 17(c)(i)(1) has been issued by the respondent with a predetermined mind to impose the major penalty of dismissal from service, which is in contravention to Rule 8 (iv), (vi), (vii) and (viii) of TNCS (D&A) Rules, prescribing only four penalties thereunder. He has further submitted that the Disciplinary Authority has power to impose anyone of the penalties adumbrated under Rule 8 of TNCS (D&A) Rules, as the power is not confined to the authority only under Rule 17(c)(i)(1) of TNCS (D&A) Rules.

5. Heard the learned counsel for the respondent, who has stated that it is only a show cause notice issued against the Appellant and there is no impediment for the Appellant to give suitable explanation to the show cause notice.

6. It is seen that the respondent has issued the show cause notice under Rule 17(c)(i)(1) of TNCS (D&A) Rules, pursuant to the order of conviction imposed on the Appellant by the Criminal Court. It is stated across the bar that the Appellant has not submitted any explanation to the show cause notice.



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7. The Hon'ble Supreme Court in the case of Union of India and another vs. Kunisetty Satyanarayana, reported in (2007) 1 SCT 452, categorically held that in some very rare and exceptional cases, the High Court can quash the charge sheet or show cause notice, if it is found to be without jurisdiction and wholly illegally and in the absence of any such violation and infringement of rights, there is no scope for the High Court to interfere with the show cause notice.

8. In view of the dictum laid down by the Supreme Court, we are not inclined to interfere with the show cause notice impugned in the Writ Petition as well as the order of the learned Single Judge. Accordingly, the Writ Appeal is disposed of with the following directions:

i) The Appellant is directed to give explanation to the show cause notice dated 07.04.2021 within a period of 15 days from the date of receipt of a copy of this judgment;

ii) On receipt of such explanation, the Authority concerned shall consider the same and pass appropriate orders thereon in terms of the relevant provisions of Rules, after affording an opportunity of hearing to the Appellant, if need be.



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No costs. Consequently, connected miscellaneous petitions are closed.

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[D.K.K., J.,]

[K.B., J]

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Index: Yes / No

Internet: Yes / No

Speaking Order/Non Speaking Order
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To:

The Director of Medical Education,
Kilpauk,
Chennai – 600 010.



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