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W.P.No.3570 of 2016



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2024

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.3570 of 2016
and
W.M.P.No.2937 of 2016

Dr.K.Manmatharaj

... Petitioner

Vs.

1.State of Tamil Nadu

Rep. By its Secretary to Government,
Health & Family Welfare Department,
Fort St. George,
Chennai-600 009

2.The Director of Medical Education,
Kilpauk,
Chennai-600 010

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, Calling for the records in connection with the charge memo Ref. No.87767/SC1/3/2008 dated 26.05.2009 issued by the 2nd



respondent herein and the order of punishment G.O(D) No.406 dated 17.05.2012 passed by the 1st respondent herein and the order of rejection on petitioner representation Letter No.36210/A1/2013-2 dated 11.03.2014 passed by the 1st respondent herein and consequently direct the respondents to promote the petitioner to the post of Associate Professor of General Medicine with all consequential benefits.

For Petitioner : No Appearance

For Respondents :
(for R1 & R2) : M/s.E.Sundaram, Govt. Advocate

ORDER

The above Writ Petition has been filed to call for the records in connection with the charge memo Ref.No.87767/SC1/3/2008 dated 26.05.2009 issued by the 2nd respondent herein and the order of punishment G.O(D) No.406 dated 17.05.2012 passed by the 1st respondent herein and the order of rejection of the petitioner representation in Letter No.36210/A1/2013-2 dated 11.03.2014 passed by the 1st respondent herein and consequently direct the respondents to promote the petitioner to the post of Associate



Professor of General Medicine with all consequential benefits.

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2. On 21.06.2024, the learned counsel for the petitioner had represented to the Court that he seeks to withdraw the writ petition as the petitioner has retired from service. Therefore, the matter was directed to be listed on 28.06.2024. Once again, time was sought for on 28.06.2024. Today, when the matter was called, there was no representation for the petitioner. The contents of the affidavit and the documents filed in support of the writ petition was perused.

3. The petitioner was appointed as Assistant Surgeon in the Primary Health Centre, Athur in Tuticorin District through TNPSC. He had superannuated from service on 31.05.2014 at which point in time he was working as an Assistant Professor of Medicine at Tirunelveli Medical College.

4. The petitioner in the affidavit filed in support of the Writ Petition would submit that while he was working in the Tirunelveli Medical College, he had obtained prior permission from the 1st



respondent for employment in Saudi Arabia initially for a period of one year from 25.03.2005 to 24.03.2006. The said permission was granted vide G.O.(D).No.208, Health and Family Welfare (B1) Department, dated 18.03.2005.

5. Once again, his request for extension of leave was granted on 17.06.2006 for a period of one year from 25.03.2006 to 24.03.2007. His third request for extension of leave was also granted on 14.03.2007 for a further period of one year from 25.03.2007 to 24.03.2008.

6. However, when the petitioner had sought for extension of leave for a further period of 1 year from 25.03.2008 to 24.03.2009, the same was turned down and he was directed to rejoin duty failing which he had been warned that further proceedings would be initiated against him. The reason for turning down the request of extension was on account of the acute shortage of doctors faced by the Tamil Nadu Medical Services. However, it appears that the petitioner had not rejoined duty and had once again sought an



extension. By a letter dated 02.04.2009, the Office of the Dean Tirunelveli Medical College had stated that the earlier extension was refused and consequently the subsequent extension has also been denied.

7. Thereafter, disciplinary proceedings under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) was initiated against the petitioner and the petitioner was served with the charge memo dated 26.05.2009. An enquiry officer was appointed who had submitted his report on 28.06.2011 finding the petitioner guilty of all the charges. Ultimately, a punishment of stoppage of increment for a period of one year without cumulative effect had been imposed against the petitioner by the order of the 1st respondent dated 17.05.2012.

8. The petitioner would submit that after the imposition of the punishment a panel for the post of Associate Professor of Medicine for the years 2012-13 & 2013-14 was approved and his name had not been considered. Therefore, he had sent a representation to the 1st



respondent dated 09.07.2013 seeking relaxation of rules to include his name in the promotion counseling only for the purpose of pensionary benefits as he was on the verge of retirement. Since the same was not considered, the petitioner had filed W.P.No.26219/2013 for a mandamus directing the respondents to consider and pass orders on the representation dated 09.07.2013. Ultimately, by an order dated 04.02.2014, the said Writ Petition was disposed of directing the respondents to consider the said representation and pass orders on merits and in accordance with law within a period of 4 weeks.

9. Thereafter, the 1st respondent had passed the impugned order dated 11.03.2014 wherein it was stated that the petitioner's name had not been considered as there was currency of punishment on the crucial date on which the panel for promotion for the year 2013-14 was prepared. The impugned order would state that the petitioner's punishment commenced on 11.06.2012 and concluded on 11.06.2013. However, the panel for promotion was prepared on 15.03.2013 and therefore the petitioner's name has not been



considered for promotion.

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10. It is evident that the petitioner has challenged the charge memo issued by the 2nd respondent in the year 2009 and the order of punishment issued by the 1st respondent in G.O.(D).No.406 dated 17.05.2012, by filing the above writ petition only in the year 2016. There is an inordinate delay on the part of the petitioner to approach the Court and the above writ petition is clearly hit by laches. That apart, the 1st respondent has rightly rejected the representation of the petitioner dated 11.03.2014 as the punishment of the petitioner was in currency on the date on which the panel for promotion for the year 2013-14 was prepared.

11. In view of the above, the Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

12.07.2024

(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No



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