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W.A.No.2299 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : **17.10.2023**
Pronounced on : **29.02.2024**

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE G.ARUL MURUGAN

W.A.No.2299 of 2019
and C.M.P.Nos.15169 and 25839 of 2019

Dr.S.Ranjane

... Appellant / Petitioner

Vs.

1. The State of Tamil Nadu
Rep. by the Secretary to Government,
Health and Family Welfare Department,
Secretariat, Chennai - 9.
 2. The Director of Medical and Rural Health Services
DMS Complex,
Chennai - 6.
 3. The Joint Director of Medical Services
Government Hospital,
Erode - 9.
- ... Respondents / Respondents

Prayer : Writ Appeal filed under Clause 15 of the Letters Patent Act, to set aside the order dated 21.03.2019 passed in W.P.No.19319 of 2018 by the learned Judge.



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For Appellant : Mr.V.Prakash, Senior Counsel
for Mr.M.Kamalanathan

For Respondents : Mr.Vadivelu Dheenadayalan
Additional Government Pleader

J U D G M E N T

R.SURESH KUMAR, J.

The appellant claimed to have been appointed as Assistant Surgeon in the Tamil Nadu Medical Service on 07.02.1992 at Government Primary Health Centre, Dindigul District. Thereafter in that capacity as Assistant Surgeon, she had been working at various places. After the service of seven years period, she was promoted as Senior Assistant Surgeon on 20.05.1999 and in 2011 she was posted at Government Hospital, Andhiyur, Erode District, where she worked from May 2011 to January 2012. Thereafter she had worked as Chief Civil Surgeon from 28.01.2011 till 30.04.2014 in Government Hospital, Mettur Dam. Thereafter she was shifted to Government Hospital, Andhiyur as Chief Civil Surgeon / Medical Officer with effect from 01.05.2014 where he had been working for four years.



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2. While she was working as Chief Civil Surgeon at Andhiyur Government Hospital, there has been a disciplinary proceedings initiated against the appellant, where a charge memorandum had been issued on 17.01.2018 framing four charges against her.

3. The explanation had been given by the appellant to the said charge memo to the third respondent. Thereafter the charge memo, dated 17.01.2018 was superseded or cancelled and in lieu of the same, a fresh charge memorandum, dated 25.06.2018 had been issued by the third respondent. In response to the same, the petitioner had given reply or representation on 04.07.2018.

4. Thereafter, the petitioner / appellant had approached this Court by filing the writ petition in W.P.No.19319 of 2018 challenging the very charge memo, dated 25.06.2018 issued by the third respondent.

5. Before the writ court, inter alia, on behalf of the writ petitioner /



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appellant, two major grounds had been raised against the said charge memo.

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6. The first ground raised on behalf of the petitioner / appellant was that, the charge memo since was issued by the third respondent who is incompetent to issue such charge memo, therefore for want of jurisdiction charge memo has to be quashed. The second major ground that was raised on behalf of the petitioner / appellant before the writ court was that, the very charge, dated 25.06.2018 consisting of 5 charges are vague charges. Therefore on the ground of vagueness, the said charge memo is liable to be quashed. These are all the two grounds mainly raised by the petitioner / appellant before the writ court assailing the impugned charge memo, dated 25.06.2018 before the writ court.

7. Hearing both sides, a learned Judge of the writ court by order, dated 21.03.2019 after having discussed the issue raised therein exhaustively and after meeting out the two grounds mainly raised by the petitioner / appellant, i.e., want of jurisdiction and vagueness, had ultimately dismissed the said writ petition by order, dated 21.03.2019. Aggrieved over the same, the present writ appeal has been directed.



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8. Heard Mr.V.Prakash, learned Senior counsel appearing for the appellant who before this Court has insisted upon the said two grounds mainly, i.e., want of jurisdiction and vagueness. With regard to the ground of want of jurisdiction, the learned Senior counsel has relied upon the Special Rules of the Tamil Nadu Medical Service. By relying upon the same, the learned Senior counsel would contend that, the third respondent is the Joint Director of Medical and Rural Health Services or Joint Director of Health Services, whereas the appellant has been designated as Chief Civil Surgeon.

9. In this context, it is to be noted, according to the learned Senior counsel that, the post of Joint Director of Medical and Rural Health Services and the post of Chief Civil Surgeon are in the same cadre and it is in fact interchangeable. In other words, a person working as Chief Civil Surgeon can be drawn to be posed for the post of Joint Director of Medical and Rural Health Services and vice versa.



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10. When that being the position, since the third respondent and the appellant being the delinquent are under the same cadre, the third respondent has no jurisdiction or he is not a competent authority to issue a charge memo against the appellant.

11. In this context, the learned Senior counsel has relied upon Rule 12 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, where the third proviso to rule 2 of Rule 12 has been mainly relied upon and by relying upon the said rule, the learned Senior counsel would contend that, the authorities directly higher to the members holding the post included in the State Services may frame charges against such members of State Services under Rule 17(b) or issue show cause notice under Rule 17(a), even if they are not competent authority to impose the penalty.

12. Even though such a proviso is available under Rule 12(2) of the said Rules, since the third respondent is not the immediate higher authority, he cannot issue the charge memo against the appellant.



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13. The learned Senior counsel therefore would contend that, if at all the third respondent finds anything wrong against the appellant, for which a disciplinary proceedings to be initiated, he should only refer the matter to the competent authority, i.e., the Disciplinary Authority and such a Disciplinary Authority alone is entitled to frame the charges. In this context, the learned Senior counsel would contend that, the second respondent, namely, the Director of Medical and Rural Health Services alone would be the next higher authority of the appellant and therefore he has to issue the charge memo and after enquiry, if it is over and before taking any decision with regard to the imposing of penalty or otherwise, even that decision has to be taken only by the Disciplinary Authority, namely the Appointing Authority, i.e., the first respondent, Secretary to Government to whom alone a reference has to be made by the second respondent after completing the enquiry and then only if at all any punishment to be inflicted against the delinquent, i.e., the appellant in case of the charges framed against her is proved, such a punishment or penalty shall be imposed only by the first respondent as who alone shall be the competent authority.



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14. Therefore the learned Senior counsel would contend that, the third respondent being the Joint Director of Medical Services is the equal cadre officer and he would no way be competent to issue the charge memo, therefore, even under the third proviso to Rule 12(2) of the said rules since the third respondent is not a competent authority to issue even the charge memo, the very charge memo issued against the appellant through the impugned charge memo before the writ court is liable to be set aside on the ground of want of competitiveness and want of jurisdiction, the learned Senior counsel contended.

15. The learned Senior counsel also has raised a point that, though initially there were four charges framed by the first charge memo, dated 17.01.2018, the same since has been met by the appellant as a delinquent by giving explanation on 07.04.2018, instead of accepting the explanation and to drop the proceedings, the third respondent has come forward to issue the second charge memo on 25.06.2018 under which the first charge memo, dated 17.01.2018 has been cancelled or given up.



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16. Even in the second charge memo which is impugned in the writ petition, dated 25.06.2018, though there had been five charges framed against the appellant / writ petitioner, all the five charges are vague. In support of which, there has been no documentary evidence available with the Disciplinary Authority or the third respondent who issued the charge memo. Therefore such a vague charges framed against the appellant cannot be sustained under the scrutiny of law on the ground of vagueness itself. Therefore on the ground of vagueness also, the charge memo is liable to be interfered with or set aside, the learned Senior counsel contended.

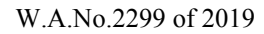
17. In order to meet out these grounds raised on behalf of the appellant, Mr.Vadivelu Dheenadayalan, learned Additional Government Pleader appearing for the respondents would contend that, as per the third proviso to Rule 12(2), a directly higher authority, even though may not be a competent authority to impose a penalty, can issue the charge memo and once the charge memo is issued and the Enquiry Officer conducted the enquiry and filed a report, only at that time it has to be referred to the



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second respondent for deciding the imposition of penalty if any to be imposed against the delinquent. Therefore at this stage, i.e., at the stage of issuance of the charge memo since the third respondent being the immediate direct higher authority of the State Service, wherein the appellant is the member, being the competent authority under the third proviso to Rule 12(2) can very well issue the charge memo.

18. The learned Additional Government Pleader would also submit that, insofar as the other ground of vagueness that has been raised on behalf of the appellant is concerned, he submitted that, there are 5 charges framed, the imputation of the charges, statement and everything had been given as annexure to the charge memo and what are all the documentary evidences that is going to be relied upon by the prosecution side also had been annexed and who are all the oral witnesses to be examined during the enquiry to be conducted by the Enquiry Officer also enumerated and listed out and all these list and documents since have been served along with the charge memo to the appellant / delinquent, the charges cannot be said to be a vague one.



20. We have considered the said rival submissions made by the learned counsel appearing for both sides and we have also perused the materials placed before this Court.



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21. The first and foremost ground that has been raised on behalf of the appellant is that, for want of jurisdiction, the charge memo has to be set aside. In this context, the learned Senior counsel has pointed out that, the post of Chief Civil Surgeon held by the appellant as well as the post of Joint Director of Medical Sciences is the equivalent post.

22. In this context, if we look at the relevant rule, i.e., Special Rules for Tamil Nadu Medical Service, in category 21, the post of Joint Director of Medical and Rural Health Services and Joint Director of Health Services have been mentioned and the rule has further stated that, insofar as the promotion to be made to the post of Joint Director of Medical and Rural Health Services and Joint Director of Health Services, the promotion must be from among the holders of the post not below the grade of Civil Surgeon in general line. That means a person who have been working as Civil Surgeon in general line would be eligible to get promotion to the post of Joint Director.



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23. In this context, it is the specific case of the appellant as projected by the learned Senior counsel on her behalf that, the post of Civil Surgeon in general line is the feeder category for the promotion to the post of Joint Director of Medical Sciences, whereas the post held by the appellant is the Chief Civil Surgeon. Therefore the Chief Civil Surgeon cannot be equated with the Civil Surgeon in general line, therefore the Chief Civil Surgeon cannot be considered to be a feeder category for the post of Joint Director. In that case, the Chief Civil Surgeon can only be construed as a equal post to the post of Joint Director of Medical Services.

24. In this context, it is the further contention of the learned Senior counsel that, from the post of Chief Civil Surgeon, a person on his or her willingness can be posted as a Joint Director of Medical Sciences on administrative side and vice versa. When that being the position, it can only be stated that, the post of Joint Director and the post of Chief Civil Surgeon are equal cadre. When that being so, the third proviso to Rule 12(2) of the Rules cannot be made applicable to the case in hand and therefore, the



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arguments advanced on behalf of the respondent by taking shelter under third proviso to Rule 12(2) for issuance of charge memo by the immediate next higher authority, namely the third respondent who is empowered to issue the charge memo cannot be countenanced.

25. This argument advanced on behalf of the appellant side as projected by the learned Senior counsel whether to be accepted or not is the main question to be decided.

26. In fact this question had been placed for consideration before the learned Judge in the writ petition itself. The learned Judge in fact has dealt with the issue exhaustively. The learned Judge after having extracted the third proviso to Rule 12(2) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, in short “the Rules” has discussed the issue in the following manner :

"9. Let us now read the Proviso to 12(2) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, which is extracted hereunder:-

“Provided also that all authorities directly higher to the members holding the posts included in the



State Services may frame charges against such members of the State Services under rule 17(b) or issue show cause notice under rule 17(a) even if they are not the competent authority to impose the penalty and they may conduct the inquiry themselves or request the competent authority to appoint an officer to conduct the inquiry. They shall remit the papers to the competent authority for passing final orders, after the case is processed upto the level of completion of inquiry or after receipt of explanation to show cause notice, as the case may be.”

10. Let us now examine the Provision in its real spirit and meaning.

11. First Phrase of the provision is that “all authorities directly higher to the members holding the posts included in the State Services may frame charges against such members of the State Services under rule 17(b) or issue show cause notice under rule 17(a) even if they are not the competent authority to impose the penalty.”

12. The said portion of the provision is unambiguous that the next higher authority to the members holding the Posts of State Services are empowered to frame charges against the members of the State Services either under Rule 17(a) or



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under Rule 17(b).

13. It is pertinent to note that 17(a) is for minor penalty and summary proceedings are to be followed. Thus, the next higher authority is empowered to issue show cause notice and receive objections / explanations from the delinquent official and thereafter, place the file for passing final orders before the competent authority for imposing penalty under the Discipline and Appeal Rules. Thus, there is no impediment for the next higher authority to the members holding the Post of State Services to frame charges against the officials serving under State Services.

14. The next limb of the Proviso Clause enumerates that “they may conduct the inquiry themselves or request the competent authority to appoint an officer to conduct the inquiry”.

15. In the above portion of the Rules “they” means the next higher authority to the members holding the post of State Services, “to appoint an officer to conduct enquiry” means the next higher authority as contemplated above is empowered to appoint an Enquiry officer to conduct the enquiry. The provisions are unambiguous that the next higher authority to the holders of the Post of State Services are empowered to frame charges and conduct an enquiry into



the allegations and also request the competent authority to appoint an Enquiry officer to conduct enquiry. Thus, the next higher authority himself can conduct an enquiry or request the competent authority to appoint an officer to conduct an enquiry.

16. Two circumstances are possible. The authorities, who framed the charges himself can conduct an enquiry or such authority shall request the competent authority to appoint an officer to conduct the enquiry. Thus, it is unambiguous that the Commissioner of Commercial Taxes, who framed the charge memo in proceedings dated 12.06.2014 is empowered to appoint the Additional Commissioner of Commercial Taxes to conduct an enquiry.

17. It is unambiguous that the last portion of the Proviso Clause clarifies that “they shall remit the papers to the competent authority for passing final orders, after the case is processed upto the level of completion of inquiry or after receipt of explanation to show cause notice, as the case may be.”

18. The above portion of the Provision of the Rules unambiguously enumerates that the next higher authority shall proceed with the enquiry and on receipt of the final enquiry report, such authorities shall remit the papers to the competent authority for passing final orders, after the case is



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processed upto the level of completion of inquiry. Therefore, there is no doubt in respect of the Rule 12(2) Proviso Clause is concerned. The next higher authority, who is empowered to initiate the disciplinary proceedings is empowered to process the enquiry upto the level of completion of enquiry. This being the spirit of the Rules, the very ground raised by the writ petitioner that the respondents have no jurisdiction to issue charge memo cannot be accepted.

19. As per the Amended Rule, the immediate higher authority is empowered to institute the disciplinary proceedings against the officials including the State Services Officers, proceed with the enquiry and place the entire records before the competent authority, namely, the 1st respondent in the present case for passing appropriate final orders in the departmental disciplinary proceedings."

27. From the above it can easily be culled out that, the immediate higher authority to the members holding the post of State services can issue the charge memo and conduct enquiry.

28. In this context, the learned Judge has considered the relevant G.O., i.e., G.O.Ms.No.19, P & AR Department, dated 11.02.2018, under



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which the Rule 12(2) of the Rules have been amended and powers have been delegated to all authorities directly higher to the members holding the post including in the State service to frame charges against such members of the State services.

29. It is also to be noted that, a further Government Order was issued under G.O.Ms.No.511, Health and Family Welfare (A2) Department, dated 01.11.2018, under which the cadre of Civil Surgeon in general line is re-designated as Chief Civil Surgeon in general line or Chief Civil Surgeon Specialist. Therefore the post of Chief Civil Surgeon being the re-designated post is the feeder category for promotion to the post of Joint Director of Health Services.

30. This position also has been discussed by the learned Judge in the following paragraphs :

" 20. The next question would be, whether the 3rd respondent is the next higher authority to the Post of Chief Civil Surgeon, in which, the writ petitioner is working.



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21. The learned Senior counsel appearing on behalf of the writ petitioner states that the Post of Chief Civil Surgeon as well as the Joint Director of Medical Services are equivalent cadres. Both the Posts are interchangeable. The Chief Civil Surgeon / Medical officer is posted as Joint Director of Medical Services. The writ petitioner as Chief Civil Surgeon is not supposed to report to the Joint Director of Medical Services. Thus, for all purposes, the Post of Chief Civil Surgeon and the Joint Director of Medical Services are equivalent cadres and same rank. Thus, by invoking Rule 12 of the Tamil Nadu Civil Services(Discipline and Appeal) Rules, it is to be held that the 3rd respondent is an incompetent authority under the Rules to issue charge memo to the Chief Civil Surgeon.

22. In order to ascertain the facts regarding the equivalence of these two posts namely, the Joint Director of Medical Services and the Chief Civil Surgeon, this Court directed the learned Special Government Pleader to get further instructions. The staff of the Medical Department assisted the learned Special Government Pleader and he also produced certain records. 23. It is stated in the counter affidavit that in G.O.(Ms).No.19,



P&AR(N) Department dated 11.02.2008, Rule 12(2) of the Tamil Nadu Civil Services(Discipline and Appeal) Rules has been amended and powers have been delegated to all authorities directly higher to the members holding the posts included in the State Services to frame charges against such members of the State services. Hence, the 3rd respondent herein is empowered to frame charges against the petitioner. After conducting the regular inquiry in the disciplinary proceedings, the disciplinary case will be remitted to the first respondent along with the inquiry report for further action and to issue of final orders in the matter. Thus, the charge memo issued by the third respondent is in order and in accordance with the Rule 12, which was amended.

24. The learned Special Government Pleader appearing on behalf of the respondents disputed the contentions that the Post of Joint Director of Medical / Health Services and Chief Civil Surgeon are equivalent cadres. The learned Special Government Pleader contended that the Post of Joint Director is a promotional post.

25. The Special Rules relating to the State Services are cited by the learned counsel for the respondents. Category 21 deals with Joint Director of Medical and Rural Health Services and Joint Director of Health Services and the



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same is reads as follows:

Category 21

Joint Director of Medical and
Rural Health Services and Joint
Director of Health Services

Promotion from among the holders
of the post not below the grade of
Civil Surgeons in General line.

26. Thus, the Special Rules for State Services itself stipulates that the cadre of Civil Surgeon in general line is the Feeder category for promotion to the Post of Joint Director of Medical and Rural Health Service and Joint Director of Health Services. The Special Rules were amended in G.O.Ms.No.511, Health and Family Welfare (A2) Department dated 01.11.2018. As per the said Amendment, the Cadre of Civil Surgeon in general line is re-designated as Chief Civil Surgeon in general line or Chief Civil Surgeon Specialists. Thus, the Post of Chief Civil Surgeon is the Feeder Category for promotion to the Post of Joint Director of Health Services."

31. Therefore the first ground raised on behalf of the appellant that, the Chief Civil Surgeon is a equal post of Joint Director of Medical Sciences, therefore the third respondent being the Joint Director of Medical Sciences cannot issue the charge memo against the appellant cannot be countenanced because the post of Chief Civil Surgeon is the equivalent post



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of Civil Surgeon. Therefore merely because it has been re-designated as Chief Civil Surgeon in general line or Chief Civil Surgeon in Specialist, it cannot be stated that it is a higher post and equivalent to the Joint Director.

32. Insofar as the promotion to the post of Joint Director is concerned, earlier it was from the Civil Surgeon general line from where the promotion can be given to the post of Joint Director of Medical and Rural Health Services or the Joint Director of Health Services. Once it has been re-designated by virtue of G.O.Ms.No.511, the post has been re-designated as Chief Civil Surgeon in general line or Chief Civil Surgeon Specialist line.

33. If that being so, the feeder category hitherto was the Civil Surgeon in general line which has now been re-designated as Chief Civil Surgeon in general line. Therefore, the post of Chief Civil Surgeon in general line is nothing but a re-designation of earlier Civil Surgeon in general line. Hence, the Chief Civil Surgeon post is definitely a feeder category for the promotion to the post of Joint Director of Medical and



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Rural Health Services.

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34. Insofar as the promotion to be given to the said post of Joint Director is concerned, no doubt it is from the post of Civil Surgeon or Senior Civil Surgeon after the amendment. It is a one time option to be given to those Civil Surgeons to exercise their option to become Joint Director on the administrative side

35. It is pertinent to note that once they exercise the option and come to the administrative line and become the Joint Director, they cannot once again go back to the Surgical side or Medical side either as a Civil Surgeon or Chief Civil Surgeon in the general line or surgical line.

36. Therefore if these points are taken into account, the arguments advanced on behalf of the appellant that, the post of Joint Director of Medical and Rural Health Services or the Joint Director of Health Services is the higher post for which only the grade of Civil Surgeon in general line alone is the feeder category and the Chief Civil Surgeon is the equal category and therefore the third proviso to Rule 12(2) of the Rules cannot be



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made applicable to the case of the appellant is concerned, such an argument advanced by the learned Senior counsel cannot be countenanced because of the rule position as has been amended by the two Government Orders as quoted herein above, regarding which detailed discussions had been made by the learned Judge in the impugned order. Therefore the learned Judge has rejected the said plea raised by the writ petitioner in the writ court, as the same plea since has been raised before this Court, we are also inclined to reject the same.

37. Insofar as the second ground, that is vagueness is concerned, it is to be noted that, the first charge memo was issued on 17.01.2018, where four charges had been given, subsequently under the second charge memo, dated 25.06.2018, the first charge memo, dated 17.01.2018 has been cancelled.

38. In the second charge memo, dated 25.06.2018, five charges had been framed against the appellant / delinquent. The five charges for the sake of convenience as has been given by way of translated copy by the appellant



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in the typed set of documents are extracted hereunder for easy reference.

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" ANNEXURE - 1

CHARGES LEVELLED AGAINST DR.RANJANI,
CHIEF CIVIL DOCTOR, WORKING AT
GOVERNMENT HOSPITAL, ANDHIYUR, ERODE
DISTRICT.

CHARGE NO.1 :

Dr.Ranjani, who is working as Chief Civil Surgeon at Government Hospital, Andhiyur, Erode District has received a sum of Rs.1000/- towards purchase of Blood Checking Machine from Mr.Kannan, whose wife Mrs.Kavitha, admitted in Government Hospital Andhiyur and delivered through Caesarean.

Therefore, Dr.Ranjani, who is working as Chief Civil Doctor at Government Hospital, Andhiyur, Erode District has misused her powers of her duty and received monry thereby she violated the Rules under 20(1) of Tamil Nadu Government Servants Conduct Rules, 1973.

CHARGE NO.2 :

Dr.Ranjani, who is working as Chief Civil Surgeon at Government Hospital, Andhiyur, Erode District has received a sum of Rs.1000/- towards purchase of Blood Checking Machine from Mr.Vadivel, whose wife Mrs.Ranjani, admitted in Government Hospital, Andhiyur



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and delivered through Caesarean.

Therefore, Dr.Ranjani, who is working as Chief Civil Surgeon at Government Hospital, Andhiyur, Erode District has misused her powers of here duty and received money thereby she violated the Rules under 20(1) of Tamil Nadu Government Servants Conduct Rules, 1973.

CHARGE NO.3 :

Dr.Ranjani, Chief Civil Surgeon and Medical Officer, Andhiyur Government Hospital has demanded a sum of Rs.1500/- (Rupees One Thousand Five Hundred only) from Mr.Mariyappan for giving money to the Anaesthetist Doctor towards delivery of Bhanupriya, daughter-in-law of Mr.Mariyappan, who admitted as in-patient at Government Hospital, Andhiyur.

Therefore, Dr.Ranjani, who is working as Chief Civil Surgeon at Government Hospital, Andhiyur, Erode District has misused her powers of her duty and demanded money thereby she violated the Rules under 20(1) of Tamil Nadu Government Servants Conduct Rules, 1973.

CHARGE NO.4 :

Dr.Ranjani, who is working as Chief Civil Surgeon at Government Hospital, Andhiyur, Erode District has placed flex beard in front of the entrance of Government



Hospital, Andhiyur on competition with the political party without any prior approval from the higher officials. The issues with regard to placing the board had went upto (SP & DSP) Police Station.

Therefore, Dr.Ranjani, who is working as Chief Civil Surgeon at Government Hospital, Andhiyur, Erode District has violated the Rules under 20(1) of Tamil Nadu Government Servants Conduct Rules, 1973 by placing Boards in front of the Government Hospital, Andhiyur without any order from the higher officials.

CHARGE NO.5 :

It has been stated by one Mr.S.V.Marimuthu that, Dr.Ranjani, who is working as Chief Civil Surgeon at Government Hospital, Andhiyur, Erode District has behaved impolitely with patients who came to Government Hospital, Andhiyur to treatment. He acted at the core of controversies among the General Public about her activities.

Therefore, Dr.Ranjani, who is working as Chief Civil Surgeon at Government Hospital, Andhiyur, Erode District has violated the Rules under 20(a) of Tamil Nadu Government Servants Conduct Rules, 1973 by not discharging her duty.

Sd.xxx 25.06.2018



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Joint Director of Welfare Services,
Erode."

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39. If we look at these charges from charge 1 to charge 5, each charge has a definite imputation against the delinquent and therefore these charges cannot be said to be vague charges.

40. Moreover in support of these charges, a list of witnesses and documents for the charges levelled against the delinquent had been also issued as Annexure-III to the charge memo which reads thus :

"ANNEXURE - III

LIST OF WITNESSES AND DOCUMENTS FOR
THE CHARGES LEVELLED AGAINST
DR.RANJANI, CHIEF CIVIL DOCTOR
WORKING AT GOVERNMENT HOSPITAL,
ANDHIYUR, ERODE DISTRICT.

1. Complaint of Mr.S.V.Marimuthu, No.22, 23, Avinasiappan Street, Thavittupalayam, Andhiyur - 638 501, Erode District with the enclosure of proceedings of Director of Medical and Rural Welfare Services vide Na.Ka.No.16124/Aa.Ku.2/2/14, dated 20.03.2014.
2. Complaint of Mr.Kannan, S/o, Ganesan of No.20,



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Mudaliyarveedhi, Yennamangalam Taluk, Erode District.

3. Complaint of Mr.Mariyappan, S/o. Thangavel of Krishnapuram, Gettisamuthiram post, Andhiyur Taluk, Erode District.

4. Proceedings of the Joint Director, Welfare Services, Erode, vide Na.Ka.No.1887/SC/2014, dated 18.09.2016 (appointing the Joint Director, Medical Rural Welfare Services and Family Welfare, Erode as enquiry officer).

5. Proceedings of the Joint Director Medical Rural Welfare Services and Family Welfare, Erode vide File No.2545/Ni.1/2016, dated 10.10.2014 and 06.11.2014 (Preliminary Enquiry Report)."

41. Like that under Annexure - IV, the list of witnesses also has been annexed which reads thus :

"ANNEXURE - IV

LIST OF WITNESSES FOR THE CHARGES LEVELLED AGAINST DR.RANJANI, CHIEF CIVIL DOCTOR, WORKING AT GOVERNMENT HOSPITAL, ANDHIYUR, ERODE DISTRICT.

1. Mr.S.V.Marimuthu, 22, 23, Avinasiyappan Veedhi,



Thavittupalayam, Andhiyur.

2. Mr.Kannan, S/o. Ganesan, 20, Mudaliyar Veedhi, Yennamangalam, Andhiyur Taluk - 638 501, Erode District.

3. Complaint of Mr.Mariyappan, S/o. Thangavel, Krishnapuram, Gettisamuthiram Post, Andhiyur Taluk, Erode District.

4. Mr.P.Vadivel, S/o. Karuppan, M.G.R.Nagar, Karuvareddiyur, Andhiyur Taluk, Erode District.

Sd. xxx 25.06.2018

Joint Director of Welfare Services (incharge)

Erode."

42. Therefore in respect of all the five charges what are all the documentary evidences and what are all the oral evidences to be pressed into service had been given in Annexure-III and IV to the charges. Therefore each and every charge is definite in nature, in support of which documentary as well as oral evidence to be pressed into service by the prosecution side has been listed out and it has been served on the delinquent. Therefore at no stretch of imagination, it can be stated that these charges are vague in nature.



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43. In fact these grounds raised by the learned Senior counsel before the writ court itself by citing certain Judgments had been exhaustively discussed and ultimately decided by the learned Judge to state that none of the Judgment cited on behalf of the petitioner / appellant would advance the cause of the petitioner / appellant as those Judgments cited by the learned Senior counsel is of no avail to the writ petitioner in view of the fact that the charges are clear and capable of being proceeded with.

44. The said view expressed by the learned Judge is completely agreeable for this Court because the charges are not vague are definite. Moreover in support of each of the charge, what are all the documentary as well as oral evidences to be pressed into service since has been catalogued by the prosecution side, the appellant cannot state that on the ground of vagueness the impugned charge can be interfered.

45. As has been rightly held by the learned Judge in the impugned order, normally the court would not interfere in the disciplinary proceedings



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at the issuance of charge memo stage itself. There are some exceptions , the main ground for such exception is for want of jurisdiction or vagueness or violative of the statutory rules.

46. Here in the case in hand, three out of two such grounds though had been raised on behalf of the appellant, why those two grounds are not worthy grounds to be considered and those two grounds are liable to be rejected have been explained by the learned Judge in the impugned order, which view of the learned Judge is fully of our support because of the reasons and discussions we have made herein above.

47. Therefore none of the grounds raised by the appellant are worthy to be accepted for the purpose of interference of the impugned charge memo made against the delinquent appellant, therefore the reasoning given as well as the conclusion reached by the learned Judge in the impugned order in rejecting the plea of the writ petitioner / appellant against the impugned charge memo is completely tenable and acceptable and in this context, no error could be found out from the Judgment of the learned Judge, hence, it is



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to be sustained.

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48. In the result, the impugned order is to be sustained, accordingly, it is sustained. Therefore the writ appeal fails, hence, it is liable to be dismissed. Accordingly is dismissed. However, there is no order as to costs. Consequently, connected miscellaneous petitions are closed.

49. Since the charges are pending from the year 2018, the respondents are hereby directed to proceed with the charge memo and complete the enquiry within a period of three months and final orders based on the Enquiry Officers report shall be passed thereafter within one month by the competent authority / disciplinary authority without fail. In this context, the appellant shall give full co-operation in completion of the disciplinary proceedings as indicated above within the time frame. If any unnecessary adjournment is sought for, the same need not be considered by the Disciplinary Authority / Enquiry Officer and it shall proceed to complete within the time as indicated above.

(R.S.K., J.) (G.A.M., J.)
29.02.2024

Index : Yes

Speaking Order : Yes



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Neutral Citation : Yes

tsvn

To

1. The Secretary to Government
State of Tamil Nadu
Health and Family Welfare Department,
Secretariat, Chennai - 9.
2. The Director of Medical and Rural Health Services
DMS Complex,
Chennai - 6.
3. The Joint Director of Medical Services
Government Hospital,
Erode - 9.



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W.A.No.2299 of 2019

**R.SURESH KUMAR, J.
and
G.ARUL MURUGAN, J.**

tsvn

**Judgment in
W.A.No.2299 of 2019**

29.02.2024