



W.P.No.4387 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:13.12.2023

Delivered on: 15.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P.DHANABAL

W.P.No.4387 of 2017

Dr. A. Ajith S/o. A. Ramayyan Nadar

... Petitioner

Vs.

1. The Central Administrative Tribunal,
Chennai Bench – represented by its Registrar,
City Civil Court Building,
High Court Complex, Chennai.

2. The Union of India,
represented by Director General,
Ordinance Factories,
S.K. Bose Road, Kolkatta – 1.

3. The General Manager,
Heavy Vehicles Factory,
HVF, Avadi, Chennai.

4. The Chief Medical Officer,
Heavy Vehicles Factory [HVF],
Avadi, Chennai.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the 1st respondent Tribunal pertaining to O.A. No.143/2012 dated 24.08.2016 confirming the proceedings of the 3rd respondent in No.406/DS/Dr.RA/2011 dated 24.02.2011 and the proceedings of the 2nd respondent in No.254/TRANSFER/A/M dated 16.05.2011 and quash both the orders and consequently direct the 3rd respondent to take appropriate action on the representation made by the petitioner on 11.01.2011.

For Petitioner : Mr. N. Balamuralikrishnan

For Respondents : Mr. B. Sudhir Kumar,
SCGSC [for R2 to R4]
Tribunal [for R1]

JUDGMENT

(Judgment of the Court was made by P.DHANABAL,J.)

This Writ Petition has been filed by the petitioner to issue a Writ of Certiorari or any other appropriate order or direction calling for the records of the 1st respondent Tribunal pertaining to O.A. No.143/2012 dated 24.08.2016 confirming the proceedings of the 3rd respondent in No.406/DS/Dr.RA/2011 dated 24.02.2011 and the proceedings of the 2nd respondent in No.254/TRANSFER/A/M dated 16.05.2011 and quash both



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the orders and consequently direct the 3rd respondent to take appropriate action on the representation made by the petitioner on 11.01.2011.

2. According to the petitioner, he initially joined service as Assistant Medical Officer on 30.07.2001. Thereafter, he was promoted as Senior Medical Officer on 23.05.2005 and further as Principal Medical Officer with effect from 01.04.2014. Though the petitioner had joined duty on 30.07.2001, after serving in few places, he was transferred and posted to the 3rd respondent's factory during January 2008. On 13.10.2010, in the lab wherein it was found by the petitioner while inspecting the culture plates that a Lab Technician namely Mrs. Veena Prabavathy was scraping off multiple colonies for testing antibiotic sensitivity and Gram's staining, inspite of repeated reminders to pick up single colony for testing. On being reminded of her duties, suddenly she became emotional and started to behave abnormally stating that she is an experienced and need not be repeatedly informed of her duty to perform properly. Further she started concocting accusing the petitioner of trying chair few days back.



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2.1. On 13.10.2010, when the incident took place, Dr. M.S. Prasad happened to be the incharge of the hospital in the absence of Dr. Geetha Vedavyasan. For the reasons best known to him, he did not receive the complaint from the petitioner and he sent a detailed letter to him on 13.10.2010. Based on the letter, the 4th respondent once again directed the petitioner to sort out the issue with the Lab Technician instead of trying to ascertain the actual facts. However, in order to safeguard the said Lab Technician, the 4th respondent has sent an adverse report on 19.10.2010.

2.2. Further under the guise of getting the Lab Technician's explanation on the representation made by the petitioner, the 4th respondent Dr. M.S. Prasad appears to have instigated the said Lab Technician to make a counter complaint on 20.10.2010 to the authorities. The said counter complaint was immediately acted upon and constituted Committee under the Prevention of Sexual Harassment to Women at the Work Place Act. The said complaint did not carry any allegations of any sexual harassment. After enquiry, the committee had to concede that there was no sexual harassment and it has surpassed its authorities to give a biased report of character assassination of the petitioner only to support Dr. M.S.



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Prasad. However, the copies of the said report of the Committee was not forwarded to the petitioner till date, even though he had asked for a copy in writing. But no action was taken by the management and the report made by the petitioner was put in a cold storage. Therefore the petitioner made a detailed representation to the 3rd respondent on 11.01.2011 because of the indifferent attitude of the 4th respondent.

2.3. Thereafter, the petitioner had filed Original Application in O.A. No.117 of 2011 and the same was disposed of on 11.02.2011 directing the 3rd respondent to consider and pass orders on the representation. Pursuant to the direction passed by the Tribunal, the 3rd respondent by proceedings dated 24.02.2011, had rejected the representation made by the petitioner. Thereafter, the petitioner preferred an appeal to the 2nd respondent on 03.03.2011 and the same was also rejected vide Proceedings dated 16.05.2011. Thereafter, the petitioner filed the impugned O.A. No.143 of 2012 but the Tribunal failed to consider the above aspects and dismissed the O.A.

3. No counter was filed by the respondents.



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4. The learned counsel appearing for the petitioner would contend that the petitioner is working as Senior Medical Officer under the respondents' factory. While so, on 13.10.2010, a Lab Technician made quarrel with the petitioner of being reminded of her duties and thereby, he gave a complaint before the 4th respondent. But after receipt of the letter, the 4th respondent once again directed the petitioner to sort out the issue with the Lab Technician instead of trying to ascertain the actual facts. However, in order to safeguard the said Lab Technician, the 4th respondent has sent adverse report on 19.10.2010 by assassinating the character of the petitioner and that he was trying to safeguard the said Lab Technician. Further as per the instigation of the 4th respondent, the said Lab Technician made a counter complaint on 20.10.2010, as against the petitioner.

4.1. Based on the said complaint, the Committee under the Prevention of Sexual Harassment to Women at the Work Place Act was constituted and the petitioner also appeared before the committee on 28.10.2010. The copy of the said report of the committee was not forwarded to the petitioner even though he had asked for the copy in writing. At the same time, no action was taken by the management on the



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complaint of the petitioner as against the Lab Technician dated 13.10.2010. Therefore, the petitioner sent a representation to the 3rd respondent dated 11.01.2011 and the same was not considered by the authorities. Hence the petitioner filed an Original Application before the Central Administrative Tribunal and the Tribunal has dismissed the application without considering the above facts.

4.2. The learned Tribunal failed to consider the fact that the 4th respondent has not initiated appropriate action based on the confidential report against the lab technician and without considering the said facts, had erroneously dismissed the petitioner through its order dated 24.08.2016. Therefore, the order passed by the Tribunal is liable to be set aside by allowing this Writ petition.

5. The learned counsel appearing for the respondents would contend that the petitioner was working as Senior Medical Officer, MO OPD, Laboratory, Factory Health Organization through Office Order dated 29.09.2010. The petitioner made a confidential letter on 13.10.2010 to the 3rd respondent to take departmental action against one Smt. Veena



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Prabavathy, Lab Technician, regarding the confrontation between the petitioner and the lab technician. The respondents have no comments to offer except that there were some professional differences between the petitioner and the lab technician from the beginning. The temporary Medical Officer incharge namely Dr. M.S. Prasad, forwarded the report of the petitioner to Smt. Veena Prabavathy for her comments on 18.10.2010. In reply dated 20.10.2010, the said lab technician made a counter complaint of sexual harassment against the petitioner and requested to take action against him. Accordingly, the matter was referred to Complaints' Committee for Sexual Harassment of Women at Workplace and the Committee also submitted a report to the 2nd respondent stating that the case can only be considered as that of 'harassment at work place' and there was no direct link with sexual harassment. Since the matter being very sensitive and to avoid further confrontation or complication, the petitioner was shifted to Factory Health Clinic.

5.1. Aggrieved by this, the petitioner filed an O.A. No.179 of 2011 before the Central Administrative Tribunal and the same was disposed of vide order dated 11.02.2011 with direction to consider the representation



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of the petitioner. Accordingly, the respondent considered the representation of the petitioner dated 11.01.2011 and passed order on 24.02.2011. Another representation dated 03.03.2011 preferred by the petitioner to the 1st respondent was also considered and disposed of through order dated 16.05.2011. On examining the old case, the disciplinary authority did not contemplate to initiate disciplinary action against the lab technician, since the contention of the petitioner is not correct. The 3rd respondent had submitted a report after his investigation on the issue, based on the report and examining the old case, the disciplinary authority has not initiated any action as against the lab technician and this petitioner cannot force or compel the respondents to initiate disciplinary action. Therefore, the representation of the petitioner was rejected and the respondents advised the petitioner to concentrate on his professional works as given by the controlling officers from time to time. The learned Tribunal, after taking into consideration all the above facts, correctly dismissed the application filed by the petitioner. Therefore the present Writ petition is liable to be dismissed.



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6. Heard both sides and perused the entire records available on record.

7. According to the petitioner, while he was working in the 2nd respondents' factory, on 13.10.2010, an incident took place wherein he was given some specific instructions to the lab technician regarding lab testing, for which, the lab technician started to behave abnormally and the same was brought to the 3rd respondent's knowledge and to take action against the lab technician through a letter dated 13.10.2010. After conducting an enquiry, the 3rd respondent sent a report dated 20.10.2010 against the petitioner to the 2nd respondent. In the meantime, the lab technician also lodged a complaint dated 20.10.2010 as against the petitioner and the same was forwarded to the Committee constituted under the Prevention of Sexual Harassment for Women at Work Place Act. The report of the Committee was not forwarded to the petitioner and then he made a representation to the 2nd respondent dated 11.01.2011.

8. Since no order was passed in that representation, the petitioner filed O.A. No.117 of 2011 and the same was disposed by directing the 2nd



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respondent to consider and pass orders on the representation through order dated 11.02.2011. Thereafter, the 2nd respondent rejected the representation of the petitioner through proceedings dated 24.02.2011. The above said order is not a detailed order and the petitioner was directed that “*you should concentrate on professional work as general duty medical officer in synchronization with the priorities as given by your controlling officer(s)*”. The said order has not been challenged.

9. The main contention of the petitioner is that the 4th respondent has not initiated appropriate action based on the confidential report against the lab technician and on the other hand, instigating the lab technician to make wild and malicious allegations against the petitioner and not taking action against the lab technician instead of making wild and malicious allegations against the petitioner and allowing her to go scot free without realising the fact that such allegations and facing of enquiry has resulted in serious hardship to the petitioner and the same has not been considered by the Tribunal. On the other hand, the 2nd respondent had conducted enquiry and sent report to the 3rd respondent and based on the report and other documents, the representation of the petitioner was rejected and complaint



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given by the lab technician against the petitioner was also examined by the Committee and held that there was no sexual harassment but at the same time, it was an harassment at work place. Therefore, considering the above said facts, the competent authority have not initiated any disciplinary proceedings against the lab technician and also advised the petitioner to concentrate on his professional works.

10. As far as the disciplinary action is concerned, it is for the disciplinary authorities to take action based on the material available and prima facie to constitute delinquency. After satisfying that there is no prima facie materials to proceed further against the said lab technician, the authorities have not initiated disciplinary proceedings. Therefore, the petitioner cannot insist the disciplinary authorities to initiate disciplinary proceedings. It is also well settled law that as far as the initiation of disciplinary proceedings is concerned, it is the matter between the employer and employee and the petitioner being 3rd party cannot seek direction to initiate disciplinary action against the employee through Article 226 of Constitution of India.



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11. The Hon'ble Supreme Court in *Rajnit Prasad vs. Union of India* and others reported in (2000) 9 SCC 313, in Paragraphs 8, 9 and 10 held as follows:

“8. It is, no doubt, true that the scope of "locus standi" has been widened by this Court through its various decisions and, that too, in the field of Public Interest Litigation where it has been said that Public Interest Litigation can be initiated not only by filing petitions in the High Court or in this Court in a regular manner but also by means of letters and telegrams addressed to the Court. (See : People's Union for Democratic Rights v. Union of India , Bandhua Mukti Morcha v. Union of India , State of Himachal Pradesh v. A Parent of a Student of Medical College, Shimla and Bangalore Medical Trust v. B.S. Muddappa.

9. But a mere busy-body who has no interest cannot invoke the jurisdiction of the Court. In respect of departmental proceedings which are initiated or sought to be initiated by the Government against its employees, a person who is not even remotely connected with those proceedings cannot challenge any aspect of the departmental proceedings or action by filing a Writ Petition in the High Court or in this Court. Disciplinary action against an employee is taken by the Government for various reasons principally for "misconduct" on the part of the employee. This action is taken after a "domestic" enquiry in which the employee is provided an opportunity of hearing as required by the constitutional mandate. It is essentially a matter between the employer and the employee, and a stranger, much less a practising advocate, cannot be said to have any



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interest in those proceedings. Public interest of general importance is not involved in disciplinary proceedings. In fact, if such petitions are entertained at the instance of persons who are not connected with those proceedings, it would amount to an abuse of the process of Court.

10. In view of the above, it is not open to the petitioner to challenge the Order of the High Court by which the departmental charge-sheet issued to Dr. U.N. Biswas was quashed. The permission to file the special leave petition is, therefore, refused”.

From the above judgment, it is clear that 3rd party cannot invoke writ jurisdiction to take disciplinary action against the employee of department. In the case on hand also, the Department, after perusal of the complaint of the petitioner, disposed the same and not taken any action. The respondents have disposed the petitioner's representation dated 11.01.2011 by rejecting his request.

12. The Tribunal also after taking into consideration all the submissions made on either side and available records, came to a conclusion that decision regarding disciplinary action against any employee is the prerogative of the disciplinary authority based on relevant facts, evidences available for sustaining the charges, its administrative and



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function implications etc., and the disciplinary authority did not contemplate to initiate disciplinary action against the lab technician and at the same time, corrective action in the case had already been taken at the appropriate level and further another application dated 03.03.2011 preferred by the petitioner was also considered and disposed of by the 1st respondent vide order dated 16.05.2011 stating that the petitioner should concentrate on professional work as General Duty Medical Officer in synchronization with the priorities given by his controlling officer and there is no good reason to interfere with the impugned order.

13. Therefore, as discussed supra, this Court is of the opinion that there is no any infirmity or perverse found in the order passed by the Tribunal and the present Writ petition is devoid of merits.

14. Accordingly, this Writ Petition is dismissed. No costs. Connected miscellaneous petition, if any, is closed.

(D.K.K.J) & (P.D.B.J)
15.02.2024

mjs
Internet : Yes
Index: Yes/No
Neutral Citation: Yes/No



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D.KRISHNAKUMAR, J.,
and
P.DHANABAL,J

(mjs)

Pre-delivery judgment in
W.P.No.4387 of 2017

15.02.2024