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W.A. No.3051 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2024

CORAM:

**THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
and**

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.A.No.3051 of 2024 and CMP. No.23096 of 2024

Dr.S.Subbiah

.. Appellant

Vs.

- 1.The State of Tamil Nadu represented
by its Secretary to Government
Health and Family Welfare (A-1) Department
Fort St George, Chennai – 600 009
- 2.The Director of Medical Education
Kilpauk, Chennai 600 010
- 3.The Dean, Kilpauk Medical College
Chennai 600 010
- 4.The Medical Superintendent,
Government Royapettah Hospital,
Chennai 600 014.
- 5.Dr.D.Sureshkumar
Professor of Surgical Oncology.

.. Respondents



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Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order 08.08.2024 made in W.P. No.17359 of 2024.

For Appellant : Mr.S.Selva Thirumurugan

For Respondents : Mrs.M.Sneha,
Special Counsel for R1 to R4

J U D G M E N T

(Judgment of the Court was made by MR.JUSTICE D.KRISHNAKUMAR)

This writ appeal impugns the order dated 08.08.2024 passed by a Single Bench of this Court in W.P.No.17359 of 2024.

2. The germane facts which are just necessary for deciding this writ appeal could succinctly be stated thus:

2.1 The appellant is a Doctor in Government service, employed as Professor of Surgical Oncology, Government Kilpauk Medical College/Institute of Non-communicable Diseases and Government Royapettah Hospital, Chennai.



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2.2 On 17.02.2022, he was suspended from service *vide* proceedings of the second respondent by invoking Rule 17(e) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, on the ground of his association with a political organisation and also his political statements and activities, besides propagating/expressing disloyal sentiments.

2.3 Since the Government is the appointing authority for the post of Professor, on the basis of the request made by the second respondent, the first respondent, *vide* G.O.(D) No.234, Health & Family Welfare (I-1) Department dated 09.03.2022, ratified the action of the second respondent in suspending the appellant.

2.4 The appellant assailed the aforesaid suspension order and the Government Order by filing W.P.Nos.4594 of 2022 and 6737 of 2022 respectively which were allowed by one of us (D.K.K., J.) with a direction to reinstate the appellant in service with all monetary benefits and to conduct disciplinary proceedings by following the due procedure contemplated under the Tamil Nadu Civil Services (Discipline and Appeal) Rules, within a



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period of twelve weeks.

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2.5 In pursuance of the order passed in the aforesaid writ petitions, a charge memo dated 08.11.2022 was issued to the appellant under Rule 17(b), *ibid*. The charges relate to the appellant's failure to inform the Government or his higher authorities about his heading the All India Vidyarthi Parishad in the year 2017 and his meeting a member of All India Vidyarthi Parishad in the Central Prison, Puzhal, on 16.02.2022, to give relief materials during working hours, that too, without getting the required permission therefor.

2.6 While so, *vide* Health and Family Welfare (A1) Department dated 19.06.2024, the appellant was issued with an order in and by which he was transferred to Kanchipuram and the fifth respondent was transferred to the post which was held by the appellant. Thereafter, *vide* G.O.(D) No.649, Health and Family Welfare (1-1) Department dated 24.06.2024, the appellant was suspended from service.



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2.7 The appellant filed W.P.No.17359 of 2024 and 17365 of 2024 challenging the transfer order and suspension order, respectively. He filed a third writ petition being W.P.No.17372 of 2024 seeking a direction to the respondents to grant him annual increments with effect from 01.04.2022 and to pay him arrears of salary.

2.8 A Single Bench of this Court, *vide* common order dated 08.08.2024, after hearing both sides, dismissed all the three writ petitions.

2.9 As against the order passed in W.P.No.17359 of 2024 which was filed by the appellant challenging his transfer, the instant writ appeal has been filed.

3. Heard the learned counsel for the parties and perused the materials available on record.

4. At the outset, it is worth pointing out that the appellant had filed another writ appeal being W.A.No.3034 of 2024 challenging the order



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passed in W.P.No.17365 of 2024 which was filed by the appellant challenging his suspension order. When the said writ appeal, viz., W.A.No.3034 of 2024 came up for hearing before this very Bench yesterday (17.10.2024), the State took a stand that the disciplinary proceedings initiated against the appellant would be completed within a specified time frame.

5. Admittedly, the appellant is still under suspension. As already adverted to above, this writ appeal is filed against the order passed in W.P.No.17359 of 2024 which was filed by the appellant challenging the transfer order. When, admittedly, in the other writ appeal being W.A.No.3034 of 2024 which is filed challenging the order passed in W.P.No.17365 of 2024 which was filed challenging the appellant's suspension, the State has taken a stand that the disciplinary proceedings initiated against the appellant would be completed within a time frame. In view of the aforesaid order passed in the writ appeal, the present impugned order passed challenging the transfer order cannot be considered. It is open to the appellant, to make a request to the authorities concerned, who shall



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consider the same and pass appropriate orders subject to the order passed in the disciplinary proceedings. Therefore, the present Writ Appeal cannot be entertained.

6. This writ appeal stands disposed of with the above liberty. No costs. Consequently, connected Miscellaneous Petition is closed.

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

18.10.2024

Internet: Yes/No

Index : Yes/No

Speaking Order/Non Speaking Order
rkp

To

1. The Secretary to Government,
Health and Family Welfare (A-1) Department,
Fort St George, Chennai – 600 009.
2. The Director of Medical Education,
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