



WEB COPY



W.P.No.2342 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.2342 of 2020
and W.M.P.No.2732 of 2020

Dr.R.Rajkumar

... Petitioner

-Vs-

1. The Government of Tamil Nadu,
Rep. by Secretary to Government,
Health and Family Welfare Department,
Secretariat, Chennai-600 009.

2. The Director of Public Health and Preventive Medicine,
Chennai-600 006.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the orders in (1) GO(D) No.1496, Health and Family Welfare (D1) Department dated 01.10.2019 of the first respondent (2) R.NO 000932/PHC/A4/97 dated 05.09.2001 of the second respondent served on the Petitioner on 06.02.2018 to quash the said orders and to issue consequential orders (1) to restore the Increment withheld with grant of all consequential benefits (2) to pass appropriate orders for empanelling the Petitioner for Promotion as Professor of Urology i.e from 24.03.2010 on completion of 3 years of service as Associate professor and to promote him.



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For Petitioner : Mr.M.Ravi
For Respondents : Mr.E.Sundaram
Government Advocate
ORDER

This writ petition has been filed challenging the order passed by the second respondent dated 05.09.2001, thereby imposed punishment of stoppage of increment for a period of one year without cumulative effect and the same was confirmed by the first respondent by an order dated 01.10.2019, thereby confirmed the order passed by the second respondent and dismissed the appeal.

2. Heard both sides and perused the materials available on record.

3. The petitioner was initially appointed as Assistant Surgeon, on 21.03.1995. Thereafter, he was promoted to the post of Senior Assistant Professor of Urology and as an Associate Professor of Urology. While he was in service as an Associate Professor of Urology, Government Mohan Kumaramangalam Medical College, Salem, the petitioner was issued with a show cause notice under Rule 17(a) of the Tamil Nadu Civil Service Disciplinary and Appeal Rules alleging that while he was serving as Medical Officer, Government Primary Health Centre, Thoppur, Dharmapuri District, during the surprise inspection conducted by the Deputy Director of Health



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Services, Dharmapuri, he was found absent from duty on 19.02.1996 at 04.00

pm. No leave letter has been sent to the Deputy Director of Health Services, Dharmapuri. Further, the out patients are not treated by the petitioner and the out patient register and nominal register were not maintained properly. The movement register was also not supervised by the Medical Officer.

4. On receipt of the same, the petitioner submitted a detailed explanation. It was not satisfactory in nature and as such, an Enquiry Officer was appointed for conducting enquiry. Based on the enquiry report, the petitioner was issued with a show cause notice and the second respondent passed a final order, thereby imposed penalty of stoppage of increment for one year without cumulative effect. Aggrieved by the same, the petitioner preferred an appeal and the same was also dismissed, confirming the same.

5. The learned counsel for the petitioner raised grounds that the final order was passed after four years. In fact, the disciplinary authority abandoned the entire proceedings after receipt of the explanation for the second show cause notice. The petitioner was on leave for half a day on 19.02.1996 afternoon that too after submission of leave application. However, without considering the same, the punishment was imposed on the petitioner.



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6. A perusal of the counter filed by the respondents and on the submissions made by the learned Government Advocate appearing for the respondents revealed that after enquiry in the disciplinary proceedings, the petitioner was served with the second show cause notice along with the enquiry report. The petitioner submitted explanation. However, the Enquiry Officer held the charge proved and as such, by an order dated 05.09.2001 imposed punishment of stoppage of increment for a period of one year without cumulative effect. The appeal filed by the petitioner was also dismissed, confirming the punishment imposed by the second respondent. The only ground raised by the petitioner is that there was delay in passing final order.

7. A perusal of records also revealed that the petitioner had accepted the lapse committed by him and as such, the charge framed against him is held as proved. For the proven charge, the punishment of stoppage of increment for one year without cumulative effect imposed is just and fair. Insofar as the delay is concerned, the petitioner was studying Post Graduate at Madras Medical College during the period from 11.05.2001 to 25.03.2004. Even before that he was relieved from the Government Primary Health Centre, Thoppur on 28.05.1998 and transferred to the Government Head Quarters Hospital,



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Dharmapuri and worked there upto 10.05.2001. The Administrative Officer at the Office of the Deputy Director of Health Service, Dharmapuri submitted that the connected record with the disciplinary proceeding was not available in that office. That apart, the Deputy Director of Health service, Dharmapuri was already retired from service and therefore, there was delay.

8. Therefore, the delay was due to administrative reasons and this Court finds no infirmity or illegality in the order passed by the respondents and the writ petition is devoid of merits and is liable to be dismissed.

9. Accordingly, this writ petition stands dismissed. Consequently, connected Miscellaneous petition is closed. There shall be no order as to costs.

10.09.2024

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No
mn

G.K.ILANTHIRAIYAN. J.

mn



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To

1. The Government of Tamil Nadu,
Rep. by Secretary to Government,
Health and Family Welfare Department,
Secretariat, Chennai-600 009.

2. The Director of Public Health and Preventive Medicine,
Chennai-600 006.

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