



WP(MD)No.20359 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 03.12.2024

CORAM

THE HONOURABLE MR. JUSTICE B.PUGALENDHI

WP(MD)No.20359 of 2021

and

WMP(MD)Nos.17005 of 2021 and 2280 of 2022

P.Murugan

... Petitioner

versus

The Joint Director of Health Services,
Thoothukudi,
Thoothukudi District.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of a Writ of Certiorari, to call for the records pertaining to the order passed by the respondent in his proceedings Na.Ka.No.5350/Ne1/2013 dated 07.01.2020 and quash the same as illegal.

For Petitioner : Mr.T.Lenin Kumar

For Respondent : Mr.K.Balasubramani
Special Government Pleader



WP(MD)No.20359 of 2021

WEB COPY

ORDER

The petitioner is a Cook in the Government Hospital. While he was serving in the Government Hospital, Srivaikundam, Thoothukudi District, on 20.11.2013, a criminal case was registered against him in Crime No.326 of 2013 on the file of the Srivaikundam Police Station, Thoothukudi District, for the offence under Section 379 IPC and he was also arrested by the Police. Since the petitioner was involved in the criminal case and he was in judicial custody for more than 48 hours, the respondent has initiated a departmental proceedings as against the petitioner, by issuing a charge memo dated 02.12.2016 under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. In the departmental proceedings, the petitioner was imposed with a punishment of stoppage of increment for a period of one year without cumulative effect, by order dated 07.01.2020. Challenging the order of punishment dated 07.01.2020, the petitioner has filed this writ petition.

2. The learned counsel appearing for the petitioner submits that the departmental proceedings itself was initiated as against the petitioner



WP(MD)No.20359 of 2021

based on the criminal case registered against him in Crime No.326 of 2013, on the file of the Srivaikundam Police station. However, the criminal case was quashed by this Court in CrI.O.P.(MD)NO.15940 of 2016 on 29.08.2016. According to the learned counsel for the petitioner, one Paramasivam, who lodged the complaint as against the petitioner and two others, has withdrawn the complaint that his complaint itself is false. However, the respondent has proceeded with the disciplinary proceedings and passed an order of punishment, based on the criminal case registered as against him. The learned counsel further submits that the petitioner was not provided an opportunity to offer his explanation on the proposed punishment based on the enquiry report. Therefore, the impugned order of punishment is liable to be set aside.

3. The learned Special Government Pleader appearing for the respondent submits that though a criminal case registered against the petitioner was quashed by this Court in CrI.O.P.(MD)No.15940 of 2016, it was only on the compromise memo filed by the complainant and the petitioner and not on merits. The learned Special Government Pleader



WP(MD)No.20359 of 2021

further submits that the Police, who conducted the investigation in Crime No.326 of 2013, filed the final report as against the petitioner and two others that they are the accused, who committed the theft. The respondent Police have also arrested the petitioner and recovered the stolen calves. Therefore, the petitioner cannot take any advantage to interfere with the order of punishment, based on the subsequent compromise arrived at between the petitioner and the defacto complainant in CrI.O.P.(MD)No.15940 of 2016. The learned Special Government Pleader further submits that the order of acquittal in a criminal case based on the compromise memo is not a ground to defer the departmental proceedings or to interfere with the departmental proceedings. He further submits that the enquiry report was furnished to the petitioner and a further representation was called for from the petitioner on 29.10.2019 and the same was received by the petitioner on 01.11.2019. Therefore, there is no reason to interfere with the impugned order of punishment.

4. This Court considered the rival submissions and also perused the materials placed on the record.



WP(MD)No.20359 of 2021

WEB COPY

5. The petitioner was imposed with a punishment of stoppage of increment for a period of one year without cumulative effect, based on the departmental proceedings initiated against him in the year 2013. But, the disciplinary proceedings itself was initiated for his involvement in the criminal case while he was in service and he was in judicial custody for more than 48 hours. This criminal case, which is the basis for the departmental proceedings, was quashed by this Court in CrI.O.P. (MD)No.15940 of 2016 on 29.8.2016. However, as pointed out by the learned Special Government Pleader that it is on the compromise arrived at between the complainant and the petitioner. One Paramasivam, who lodged a complaint by setting the law in motion in the year 2013 for missing his calves, has now taken a stand that he has detected his calves behind his house. However, the Police, who conducted the investigation in the criminal case registered in Crime No.326 of 2013, have filed the final report as against the petitioner in the year 2015 in CC No.431 of 2015 before the Judicial Magistrate Court, Srivaikundam. Subsequently, the criminal case was quashed by this Court in CrI.O.P.(MD)No.15940 of 2016, by order dated 29.08.2016, based on the compromise arrived at



WP(MD)No.20359 of 2021

between the complainant and the petitioner. As rightly pointed out by the learned Special Government Pleader, even if the delinquent has been acquitted from the criminal charge, it cannot be a bar for the department to proceed with the departmental proceedings. Therefore, this Court is not inclined to entertain this writ petition.

6. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

03.12.2024

ogy
NCC : Yes / No.
Index : Yes / No.
Internet: Yes / No.

To

The Joint Director of Health Services,
Thoothukudi,
Thoothukudi District.



WEB COPY



WP(MD)No.20359 of 2021

B.PUGALENDHI, J.

ogy

WP(MD) No.20359 of 2021

03.12.2024