



WP(MD)No.1031 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**WP(MD)No.1031 of 2017
and
WMP(MD)No.859 of 2017**

1.B.Ramadevi (died)

2.T.Jeyaraman

3.J.Mathusuthanan

4.R.Raamsurathkumar

... Petitioners

Petitioners 2 to 4 are substituted vide order dated
04.11.2024 in WMP(MD)No.18272 of 2023]

VS

1.The State of Tamil Nadu represented
by Secretary to Government,
Health and Family Welfare Department,
St.George Fort, Chnnai.

2.The Secretary,
Tamil Nadu Public Services Commission,
Frazer Bridge Road,
Chennai – 600 003.

3.The Director of Public Health and
Preventive Medicine,
Chennai – 600 006.



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4.The Commissioner,
Tribunal for Disciplinary Proceedings,
5/1B, Vinayaga Nagar,
Madurai – 625 020.

5.The Deputy Director of Health Services,
Theni District.

...Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus calling for the records relating with the impugned order issued by the 1st respondent, made in GO(D)No.1744, Health and Family Welfare (D2) Department, dated 02.12.2016 and quash the same as illegal and in consequence directing the 1st respondent to reinstate the petitioner with all attended service benefits.

For Petitioners : Mr.R.Suriya Narayanan
For Respondent : Mr.G.V.Vairam Santhosh,
Nos.1 and 3 to 5. Additional Government Pleader
For Respondent : Mr.J.Anandh Kumar
No.2

ORDER

The 1st petitioner a Staff Nurse has filed this writ petition as against the government order GO(D)No.1744, Health and Family Welfare (D2) Department, dated 02.12.2016. By this impugned order she was imposed with a punishment of compulsory retirement. The disciplinary proceedings was initiated as against the 1st petitioner by the 4th respondent on the



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allegations of bribe that she received a sum of Rs. 200/- to 300/- from the beneficiaries under the Dr.Muthulakshmi Reddy Maternity Benefit Scheme [hereinafter shall be referred to as 'the Scheme']. The government by the Scheme is giving a sum of Rs.3,000/- each before and after child birth, to the poor women for providing nutritious meal to them. The 4th respondent / the Tribunal for Disciplinary Proceedings after conducting enquiry found the charges levelled against the 1st petitioner partly proved. Based on the report of the 4th respondent Tribunal, the 1st respondent obtained an explanation from her and it was decided to impose the punishment of removal from service. The decision of the 1st respondent was forwarded to the Tamil Nadu Public Services Commission [TNPSC]. The TNPSC has suggested to impose punishment of compulsory retirement, instead of dismissal from service. Considering the suggestion made by the TNPSC, the government by the impugned order has imposed punishment of compulsory retirement. Challenging the same this writ petition is filed. Pending the writ petition, the 1st petitioner died and her legal heirs are brought on record.

2.The learned Counsel for the petitioners submits that the 1st petitioner has not received any bribe as stated by the 4th respondent.



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Though the department has relied on 20 witnesses, only 5 beneficiaries were examined as PW1 to PW5. Out of these 5 witnesses, PW1, PW3 and PW5 have turned hostile. Though PW2 and PW4 have stated that they gave money, there are several contradictions in their evidences and they were appreciated by the Tribunal. However, the tribunal has held that the charges are partly proved. The 1st respondent without considering the further representation of the 1st petitioner dated 08.05.2015 and without any discussion about the contradicting evidence of PW2 and PW4, has imposed the punishment of compulsory retirement, which is excess and also not proportionate to the charges.

3.The learned Counsel further submits that the punishment imposed by the 1st respondent based on the evidence of PW2 and PW4 is not proper. There are contradictions in their statement and therefore their evidence cannot be relied upon. The learned Counsel further submits that the 1st petitioner is only a Staff Nurse and she is not the authority to issue cheque to the beneficiaries under the Scheme and without even examining the Medical Officer, who is the competent authority, the 1st petitioner was held responsible and she was imposed with the punishment.



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4.The learned Additional Government Pleader appearing for the respondents submits that the 1st petitioner while was working as a Staff Nurse in Health Sub Centre at Sangarapuram, had demanded and accepted bribe from the beneficiaries of the Scheme and therefore, based on the complaint, a charge memo was issued and enquiry was conducted before the 4th respondent Tribunal for Disciplinary Proceedings and the 5 witnesses were examined on the side of the department and two documents were marked as exhibits. Though PW1, PW3 and PW5 have turned hostile, PW2 and PW4 have specifically stated that the 1st petitioner had received a sum of Rs.400/- and Rs.600/- as bribe from them. The Tribunal has recorded that the charges are partly proved by considering the contradictions found in the evidence of PW2 and PW4. The 1st respondent has perused all the evidence and found that the charges levelled as against this petitioner are serious in nature and has taken a decision to impose the punishment of removal from service. Therefore the 1st respondent has consulted with the 2nd respondent TNPSC and the TNPSC by considering these contradictions pointed out by 4th respondent, has suggested for imposing punishment of compulsory retirement, instead of removal from service. Therefore, after examining the report of the Tribunal for disciplinary proceedings, the further representation of the 1st petitioner and by considering the views



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of the TNPSC, the 1st respondent has imposed this punishment of compulsory retirement vide the impugned government order.

5.This Court considered the rival submissions and perused the materials placed record.

6.The 1st petitioner was a Staff Nurse. Against her allegations of bribe from the beneficiaries under the Scheme, were levelled and the allegations were verified through the PW6 (Investigating Officer) Vigilance and Anti Corruption Department, charge memo was issued and departmental proceedings were contemplated. During the enquiry before the 4th respondent / the Tribunal for Disciplinary Proceedings, the government has examined 5 witnesses as PW1 to PW5 and marked 2 documents. PW1, PW3 and PW5 have turned hostile. However PW2 and PW4 have stated about the demand and acceptance of bribe by the 1st petitioner for handing over the cheque to the beneficiaries under the Scheme.

7.The learned Counsel for the petitioner has mainly relied on the contradictions from the evidence of PW2 and PW4. In fact the Tribunal has pointed out these contradictions by the witnesses during the cross



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examination and held that the charges are partly proved.

These contradictions were considered by the TNPSC for imposing lesser punishment. What is required to be considered in the departmental enquiry is preponderance of probabilities. PW2 and PW4 were pregnant women and they have received a sum of Rs.3,000/- each before and after childbirth, provided by the government under the scheme. They have in their chief examination stated that the 1st petitioner demanded Rs.300/- and Rs.400 for issuance of cheques under the Scheme. However during the cross examination, these poor pregnant women have stated that these women have handed over the money in the presence of the villagers. Therefore, the Tribunal as well as TNPSC have found that these statements are contradictory to statement given in the chief examination.

8.The 1st petitioner has not made out any case as to why the beneficiaries have lodged the complaint as against her. Though she has attributed motive as against PW4, but she did not establish the reason for such a motive. The chief examination of PW2 and PW4 are clear and admittedly they are beneficiaries under the Scheme. If any bribe amount is received from the beneficiaries of the social welfare schemes, for extending such benefits, it has to be viewed seriously. Therefore, this Court is not inclined to entertain this writ petition.



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9. Accordingly, this writ petition is dismissed. No costs. Consequently

connected miscellaneous petition is closed.

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Internet : Yes / No

Index : Yes / No

DSK

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B.PUGALENDHI.J.,

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