



W.P.(MD)No.16871 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2024

CORAM

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.16871 of 2017

and

W.M.P.(MD).Nos.13452 & 13453 of 2017

V.Narendra Kumar

... Petitioner

Vs.

1.The Director of Public Health and Preventive Medicine,
359, Anna Salai,
Chennai-6.

2.The Director of Medical Education,
162, EVR Periyar Salai, Kilpauk,
Chennai-10.

3.The Enquiry Officer,
Professor of Neuro Surgery,
Madras Medical College
/ Rajiv Gandhi Government General Hospital,
Chennai-03.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the impugned charge memo issued by the second respondent vide his proceedings in ref No. 55683/SCI/1/2012, dated 22.11.2012, and the consequential enquiry report furnished through the first respondent vide his proceedings in R.No.



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2285/PHC3/A4/2015-1, dated 15.03.2017 (served to the petitioner on 07.08.2017) and quash the same as illegal.

For Petitioner : Mr.H.Mohamed Imran,
for M/s.Ajmal Associates

For Respondents : Mr.T.Amjad Khan,
Government Advocate

ORDER

This Writ Petition has been filed challenging the impugned charge memo issued by the second respondent dated 22.11.2012 and the consequential enquiry report furnished through the first respondent vide his proceedings dated 15.03.2017.

2. The petitioner has challenged the impugned charge memo as well as the consequential proceedings on the following grounds:

(a). The petitioner had submitted his resignation letter on 19.08.2011 and the same was also forwarded for acceptance by the higher authorities on 19.08.2011 itself in view of Rule 41-A(c) of the Tamil Nadu State and Subordinate Service Rules. The resignation of the petitioner is deemed to have been accepted on completion of three months and thereafter, there is no



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relationship of employer-employee between the petitioner and the first respondent and the relationship having been ceased to exist, the initiation of departmental proceedings against the petitioner through the impugned charge memo and the consequential proceedings does not arise.

(b). In the Writ Petition filed by the very same petitioner in W.P. (MD).No.28626 of 2011, this Court by its order dated 01.03.2012, had quashed the order, cancelling the admission of the petitioner to D.M. (Cardiology) course on the ground that he had suppressed the material facts. The Writ Appeal in W.A.(MD).No.790 of 2012 filed by the respondents aggrieved by the aforesaid order passed in the aforesaid Writ Petition also came to be dismissed by the Division Bench on 16.04.2012.

3. Learned counsel appearing for the petitioner drew the attention of this Court to the resignation letter dated 19.08.2011, submitted by the petitioner and the proceedings of the Directorate of Public Health and Preventive Medicine dated 19.08.2011, forwarding the letter of the petitioner for acceptance by the higher authorities and would submit that, since the respondents have not submitted any response to the resignation letter within a period of three months, it is deemed that the respondents have accepted the resignation of the petitioner



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as per the proviso of Rule 41-A(c) of the Tamil Nadu State and Subordinate Service Rules. Learned counsel appearing for the petitioner also drew the attention of this Court to the order dated 01.03.2012, passed in W.P.(MD).No. 28626 of 2011 and the order dated 16.04.2012, passed by the Division Bench in W.A.(MD).No.790 of 2012 and would submit that, since the order passed by the respondents cancelling the petitioner's admission to D.M. (Cardiology) course on the ground that he had suppressed the material facts, has been quashed, the impugned charge memo and the consequential proceedings have to be quashed as no usual purpose will be served, if the same is allowed to be prosecuted further.

4. A counter affidavit has been filed by the respondents denying the contentions of the petitioner. But, however, as seen from the records placed before this Court, the following are the undisputed facts:

(a). As per the Rule 41-A(c) of the Tamil Nadu State and Subordinate Service Rules, it is clear that the Appointing Authority shall either accept or reject the resignation within a period of three months from the date of receipt of the resignation letter. In the instant case, it is an admitted fact that the petitioner had submitted his resignation letter on 19.08.2011 and on the same date, the



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proceedings were also issued by the Director of Public Health and Preventive Medicine forwarding the letter of the petitioner for acceptance of his resignation. However, subsequent to the same, the respondents have neither accepted the resignation of the petitioner nor they have sent any reply to the same. Rule 41-A(c) of the Tamil Nadu State and Subordinate Service Rules reads as follows:

“The Appointing Authority shall issue orders on the notice of resignation before the date of expiry of notice, either accepting the resignation from a date not later than the date of the expiry of the notice or rejecting the same, giving the reasons therefor. If no such order is passed, the resignation shall be deemed to have been accepted on the expiry of the period of notice.”

5. Admittedly, the respondents did not send any reply pursuant to the letter of the resignation dated 19.08.2011 submitted by the petitioner. Therefore, in accordance with Rule 41-A(c) of the Tamil Nadu State and Subordinate Service Rules, the petitioner's resignation is deemed to have been accepted on the expiry of three months notice.



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6. The petitioner had also challenged the order cancelling his admission to D.M. (Cardiology) course on the ground that he has suppressed material facts through a separate Writ Petition in W.P.(MD).No.28626 of 2011 before this Court. By an order dated 01.03.2012, passed by this Court in the said Writ Petition the order cancelling his admission to D.M. (Cardiology) course on the ground that he has suppressed the material facts, was quashed by this Court and the respondents were directed to permit the petitioner to undergo the course immediately on receipt of the copy of the order. Aggrieved by the order dated 01.03.2012, passed in W.P.(MD).No.28626 of 2011, the respondents had also preferred a Writ Appeal in W.A.(MD).No.790 of 2012. The said Writ Appeal was also dismissed by the Division Bench of this Court through its order dated 16.04.2012. Therefore, it is clear that, there is no suppression of material facts by the petitioner as claimed by the respondents and only due to the said contention, the impugned charge memo and the consequential proceedings have been initiated against the petitioner.

7. Since there is no suppression of material facts by the petitioner and the petitioner's resignation is also deemed to be accepted in accordance with Rule 41-A(c) of the Tamil Nadu State and Subordinate Service Rules, the question of further proceedings pursuant to the impugned charge memo and the consequential proceedings does not arise as there is no basis for the same.



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WEB COP 8. For the foregoing reasons, the impugned charge memo dated 22.11.2012 and the consequential proceedings dated 15.03.2017 have to be necessarily quashed and the Writ Petition will have to be allowed.

9. Accordingly, the impugned charge memo issued by the second respondent dated 22.11.2012 and the consequential proceedings issued by the first respondent dated 15.03.2017, are hereby quashed and the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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NCC:yes/no
Index:yes/no
Internet:yes/no
TSG

To

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ABDUL QUDDHOSE, J.

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