



W.P.No.11137 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated: 26.09.2025

CORAM

THE HONOURABLE Dr.JUSTICE G.JAYACHANDRAN

W.P.No.11137 of 2015
& M.P.No.1 of 2015

S.Krishnamoorthy.

... Petitioner

/versus/

1. Government of Tamil Nadu,
Represented by Secretary to Government,
Public Health and Family Welfare Department,
Secretariat, Chennai – 600 009.

2. The Director of Medical & Rural,
Health Services,
Chennai – 600 006.

3. The Director of Family Welfare,
Chennai – 600 006.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Certiorarified Mandamus calling for the records of the 1st respondent relating to G.O.(D).No.1406, Health and Family Welfare (K1) Department, dated 22.12.2014 to quash the same and to issue consequential directions to the second respondent herein to consider the name of the petitioner for inclusion in the ensuing panel for promotion as Office Superintendent for the year 2014-2015 in the appropriate place therein and to promote as Office Superintendent at par with his junior.



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For Petitioner : Mr.M.Ravi,
for Priya Ravi

For Respondents : Mr.K.Tippu Sultan,
Government Advocate.

ORDER

The writ petitioner herein served as Assistant in the Public Health Department of the Nilgiris District Health Unit and later in the office of the Joint Director of Health Service, Uthagamandalam, Niligirs District. During the preparation of the promotional panel for the year 2014-15 he was facing disciplinary proceedings under Rule 17(b) of the TNCS (D&A) Rules for charge of misappropriation. After due enquiry, punishment of stoppage of increment for a period of three months without cumulative effect, besides recovery of Rs.23,750/- from his pay at the rate of Rs.1750/- as 1st instalment and Rs.2000/- per month from 2nd to 12th instalments was imposed *vide* G.O.(D).No.1406, Health and Family Welfare (K1) Department, dated 22.12.2014.

2. Being aggrieved by the said imposition of punishment and the consequential non-inclusion of his name in the panel for promotion as Office Superintendent for the year 2014-2015, the present writ petition has been filed

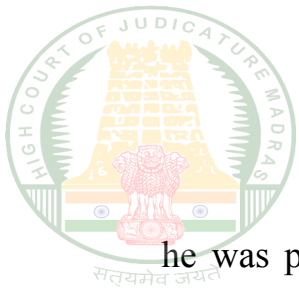


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seeking writ of Certiorarified Mandamus to quash the G.O.(D).No.1406, dated 22.12.2014 which imposed the punishment and also consequentially to include his name in the ensuing panel for promotion to the post of Superintendent.

3. In the writ petition, it is contended that the charge of misappropriation is without any basis and the punishment for the alleged misappropriation is perverse. The alleged shortage of Rs.47,5000/- was, in fact, encashed and remitted to the Nilgiris Co-operative Printing Press, Uthagamandalam, which is evident from the letter of Dr.S.Jayalakshmi. While so, holding the petitioner responsible for the shortage and to order recovery of Rs.23,750/- from his salary is *per se* illegal. It is also contended that the charge against the co-delinquent Mr.B.J.Thirumurugan who was similarly placed was dropped and he was absolved from the charges. Therefore, on parity, this petitioner should also be absolved from liability.

4. The respondents, in the counter affidavit, has stated that when there was misappropriation of funds was found, preliminary enquiry conducted, in which it revealed that the petitioner was involved in the act of misappropriating the funds of the Family Welfare Department. Consequently,

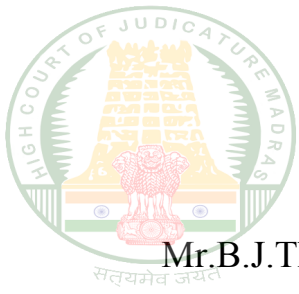


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he was placed under suspension on 08.03.2011 and later the suspension was revoked and disciplinary proceedings under Rule 17(b) were initiated against Dr.S.Jayalakshmi, Former Deputy Director, Thiru.N.Vaidyanathan, Junior Administrative Officer, Thiru.S.Krishnamoorthy, Assistant (Writ Petitioner), and Mr.B.J.Thirumurugan, for the alleged misappropriation of Rs.47,500/-. After due enquiry and examination of evidence, action against Dr.S.Jayalakshmi and Mr.B.J.Thirumurugan was dropped.

5. As against this petitioner and Krishnamoorthy, charges were held to be proved and punishment of stoppage of increment for a period of three months and recovery of the portion of the misappropriated amount in 12 instalments was ordered. Since, the Disciplinary Proceedings was pending against him, his name was not included in the promotional panel for Superintendent. As per the Service Rules, during the currency of punishment, the Delinquent cannot be considered for inclusion in the promotional panel.

6. Regarding allegation that the Co-delinquent Mr.B.J.Thirumurugan was exonerated, the respondent in the counter affidavit has stated that during the enquiry proceedings, there was no adequate material to implicate



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Mr.B.J.Thirumurgan, hence, action against him was dropped. Whereas the active role of the writ petitioner in the misappropriation was proved through evidence. It was further held that the writ petitioner withheld the relevant documents and records to screen the act of misappropriation and even at the time of suspension, he had not come forward to hand over the charge and the records.

7. This Court, on perusing the grounds raised in the writ petition and the counter affidavit, finds that due enquiry under Rule 17(b) was conducted following the procedure and the writ petitioner been found guilty of misappropriation. The promotional panel for the year 2014-2015 been drawn when the punishment was in currency. The writ petitioner had not preferred any Appeal against the order of punishment as provided in the Service Rules. His plea that he should be treated on par with Mr.B.J.Thirumurugan is untenable, since no overt act attributable to Mr.B.J.Thirumurugan whereas the writ petitioner role is misappropriation is well established through his conduct of screening records.



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8. For the said reasons, this Writ Petition is dismissed. There shall be no orders as to costs. Consequently, connected Miscellaneous Petition is closed.

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Index :Yes/No.
Internet :Yes/No.
Neutral Citation :Yes/No.
bsm

To,
1. The Secretary to Government,
Government of Tamil Nadu,
Public Health and Family Welfare Department,
Secretariat, Chennai – 600 009.

2. The Director of Medical & Rural,
Health Services,
Chennai – 600 006.

3. The Director of Family Welfare,
Chennai – 600 006.

4. The Government Pleader, High Court, Madras.



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Dr.G.JAYACHANDRAN, J.

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