



W.P.No. 916 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 19.02.2025

CORAM:

THE HONOURABLE MR JUSTICE C.V. KARTHIKEYAN

W.P.No.916 of 2024 and
W.M.P. No.949 of 2024

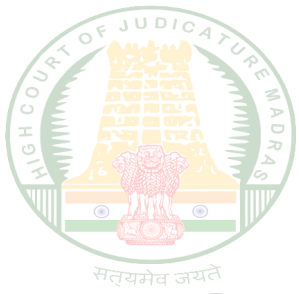
K. Dhinesh Kumar

... Petitioner

VS

1. The Chief Secretary to Govt. of Puducherry-cum-Chairperson,
Pondicherry State Health Society,
Chief Secretariat,
Beach Road, Puducherry 605 001.
2. The Secretary to Govt. of Puducherry (Health)-cum-Co-Chairperson,
Pondicherry State Health Society,
Chief Secretariat, Beach Road, Puducherry 605 001.
3. The Director (Health)-cum-Vice Chairman
(Executive Committee)
Directorate of Health & Family Welfare Service,
Victor Simmonel Street, Puducherry 605 001.
4. The Mission Director, Pondicherry State Health Society,
Health Department Complex,
Victor Simmonel Street, Puducherry 605 001.
5. Dr. G. Sriramulu,
Mission Director,
Pondicherry State Health Society,
Puducherry 605 001

...Respondents



W.P.No. 916 of 2024

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Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorari or any other order in the nature of Writ calling for the records of the 4th respondent dated 18.12.2023 in File No.2324(G)/PSHM/B3/CPC/2023-24 and to quash the same.

For Petitioner : Mr. J. Srinivasa Mohan

For Respondents : Mr. J. Kumaran
Additional Government Pleader
(Pondy).

ORDER

This Writ Petition has been filed in the nature of a certiorarified Mandamus seeking the records relating to the fourth respondent, the Mission Director, Pondicherry State Health Society, Health Department, Puducherry, dated 18.12.2023 and to quash the same.

2. In the affidavit filed in support of this writ petition, it had been contended that the Pondicherry State Health Society is a society registered under Society's Registration Act, 1860 with an object to procure medicines required for the medical institutions in the Union Territory of Pondicherry. The petitioner was recruited as a consultant-



W.P.No. 916 of 2024

Finance for IDSP Programme by an order dated 02.09.2006. The initial period of contract was only for 6 months. But, subsequently, the period was extended till the year 2010. In the year 2010, the petitioner was recommended and posted as Consultant Finance (RCH). It is contended by the petitioner that this appointment was approved by the Chairperson and Vice Chairperson of the Executive Committee. It had been contended that owing to reasons, which may not be proper on the part of this Court to enter into a discussion, the petitioner had been terminated by an order passed by the fourth respondent on 18.12.2023. This order is put to test in the present Writ Petition.

3. Learned counsel for the petitioner stated that the order had been passed on verification of records by holding that the petitioner did not possess the educational qualification and experience and therefore his initial appointment as consultant Finance/State Finance Manager was not in accordance with the requirements as stipulated in the notification for the post. But, however, it must be mentioned that the petitioner had been appointed after due scrutiny by the respondents. The respondents after extracting work from the petitioner and after also posting him to a



W.P.No. 916 of 2024

WEB COPY

higher post subsequently in the year 2010, cannot set the clock back and question the very educational qualification of the petitioner herein.

4. It is not the case the of the respondents that the petitioner had given a false declaration regarding his educational qualification. A duty had been cast on the respondent to verify the educational credentials of the petitioner before he was initially appointed and that issue cannot be opened up after nearly 17 years of the initial appointment.

5. The second reason for dismissing the petitioner from service was that it was found that the petitioner was in possession of user ID and Password for the E-tender process and with one time password. Whenever any orders are placed, the password would be received by the petitioner. Again, the respondents will have to explain as to whether that particular possession of user ID and password were unlawfully obtained by the petitioner or not. Otherwise, it could only be presumed that it had been given to him as official act by the respondents. Either way, the respondents will have to conduct an enquiry before any order of dismissal is passed as against the petitioner herein, particularly, taking



W.P.No. 916 of 2024

into account that he had been continuously employed for nearly about 17 years from the date of his initial employment.

6. The learned counsel for the petitioner pointed out the agreement which had been entered into between the petitioner and the fourth respondent on 03.04.2013, wherein various grounds had been given under which an order of termination of the petitioner herein could be passed. The said grounds are as follows:

"7. Termination

In case of improper conduct by the Signatory, having regard in particular to Article 8, State / District Health Society may terminate this Agreement; no compensation shall be payable in such a case. In the event of termination, the staff shall be paid for the period of services rendered.

8. Further, services of the appointee will be liable to get terminated by the appointer without notice, if,



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W.P.No. 916 of 2024

- a) *He/She is absent from duty for more than seven days (without permission from his/her Controlling authority).*
- b) *He/She is found to be guilty of indiscipline, dereliction of duty, misbehaviour with superior officers and colleagues or public or client.*
- c) *He/She is arrested for any criminal offence and imprisoned or remains in police custody for more than 48 hours.*
- d) *There is any palpable proof of misappropriation of fund against him/her.*
- e) *He/She is involved in any kind of financial malpractice or irregularities.*
- f) *He/She resorts to any violent activities those result in disorder, disruption of work or destruction of Government propeprty / other assets of the society.*
- g) *He/she is found to have indulged in any anti society activities tarnishing the image of the society and activities which are incompatible with the purpose*



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W.P.No. 916 of 2024

and principles for which the society has been established."

7. A careful perusal of the aforementioned grounds would show that the petitioner should either be charged with being absent from duty or be charged with indiscipline or dereliction of duty or be charged with arrest for criminal case or be charged with proof of misappropriation of funds or should have been involved with financial malpractice or should have resorted to violent activities or should have indulged in anti social activities. The respondents could come to a conclusion with respect of any one of the aforementioned allegations only on subjective satisfaction and on specific proof of the same. Except for stating that the petitioner did not possess educational qualification at the time of initial appointment as required and for stating that he was in possession of user ID and such other details, the respondents have not given any further reasons. They have stated that the respondents have construed that the petitioner could have misused the funds. If the respondents were to believe that particular allegation, then the petitioner certainly must be given an opportunity to rebut such an allegation. The violation of principles of natural justice goes to the root of the issue and I hold that



W.P.No. 916 of 2024

the respondents have failed miserably in providing an opportunity to the petitioner. The impugned order is set aside. The respondents are directed to take a decision afresh as to in what manner they would proceed with respect to the service condition of the petitioner and take a decision accordingly.

8. At the time of admission of this Writ Petition, the impugned order of suspension had been stayed. Therefore, it is only appropriate that the petitioner continues to be in employment of the respondents on the same terms as he was placed on the date of impugned order. The respondents can take a further decision with respect to the service condition of the petitioner.

9. With the above directions, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

19.02.2025

Internet : Yes / No

Index: Yes / No

Speaking order / Non speaking order

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W.P.No. 916 of 2024



W.P.No. 916 of 2024

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