



W.P.No.876 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 04.02.2025

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.876 of 2023

R. Gunasekaran

... Petitioner

Vs.

1. State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Health & Family Welfare (D2) Department,
Secretariate, Chennai – 600 009.

2. The Deputy Director of Health Service,
Salem.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of dismissal from service of the petitioner in G.O.(D) No.873 dated 01.07.2015 on the file of the 1st respondent and quash the same and direct the respondents to reinstate the petitioner into service and permit him to continue his employment by granting him all salary and monetary benefits.



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For Petitioner : Mr.S.Doraisamy

For Respondents : Mr.S.Prabhakaran
Government Advocate

ORDER

This Writ Petition has been filed challenging the order of dismissal dated 01.07.2015 in G.O.(D) No.873 passed by the 1st respondent and for a direction to the respondents to reinstate the petitioner into service with all consequential benefits.

2. The case of the petitioner is that, he was appointed as Junior Assistant in Primary Health Centre, Nangavalli on 24.11.1989 by the District Health Officer, Tiruchengode. Thereafter, he was promoted as an Assistant on 07.01.1994. While he was working in Primary Health Centre, Nangavalli, the Nangavalli Police registered a case against him on 22.12.2005 in Crime No.206 of 2005 for the alleged offences under Sections 409, 420, 477-A of IPC on the complaint made by one Dr.A.Kavitha Priya, Medical Officer, Primary Health Centre, Nangavalli. However, no action was taken on the complaint lodged by the Nangavalli Police so far and the same is pending enquiry. That being so, the



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Government issued an order in G.O.(D) No.588, Health and Family Welfare (D2) Department dated 30.06.2006 to take disciplinary proceedings against the petitioner and 20 others who were all involved in the alleged misappropriation of Government funds. In the above Government Order, it was specifically stated that, the disciplinary proceedings were to be taken commonly against all the persons involved. However, on 20.12.2005, the 2nd respondent issued a charge memo against the petitioner alone, framing various charges. Hence, the petitioner filed a writ petition before this Court in W.P.No.42022 of 2006. The 2nd respondent filed a counter affidavit in the said writ petition stating that, the disciplinary action against all the persons as indicated in G.O.(D) No.588, will be taken and the impugned charge memo issued against the petitioner will not be pursued. Recording the above statement made in the counter affidavit, the writ petition in W.P.No.42022 of 2006 was closed. Thus, the charge memo issued to the petitioner was treated as non-est and all further proceedings were dropped. However, the 1st respondent passed an order of dismissal on 01.07.2015 in G.O.(D) No.873 dismissing the petitioner from service. Challenging the said order of dismissal, the petitioner filed a review application before the 1st



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respondent. Though the review application was received by the 1st respondent, so far no order has been passed. Hence, the present writ petition has been filed.

3. The 1st respondent has filed a counter affidavit, wherein it is stated that, the impugned order in G.O.(D) No.873 dated 01.07.2015 was issued based on two specific charges which were framed against the petitioner specifically in Government Letter No.15488/02/2006-20 dated 20.06.2007 with reference to G.O.(D) No.588, Health and Family Welfare Department, dated 30.06.2006 and not against the charge sheet dated 20.12.2005 filed against the petitioner. It is further stated that, as per Rule 20(1) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, the review application shall be filed within two months from the date of communication of the order. In this case, the petitioner sent the review application after a lapse of 5 years to the Government. It is also stated that, there is an unreasonable delay of almost 5 years which cannot be condoned and is deemed to be dismissed on the foremost ground of delay and laches, on the grounds of lack of merits and further no grounds for condonation of the delay had also been raised by the petitioner in the



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review application. Hence, the 1st respondent prayed to dismiss the above writ petition.

4. On perusal of the records, it is seen that, the review application was filed in the year 2020. Though it is stated by the respondent that, there is a delay of 5 years in filing the review application which is against Rule 20(1) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, so far no orders have been passed by the respondent in the review application.

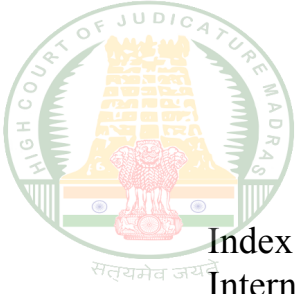
5. In view of the above, there shall be a direction to the 1st respondent to dispose of the review application as expeditiously as possible, preferably within a period of sixteen weeks from the date of receipt of a copy of this order.

6. Accordingly, this Writ Petition is disposed of. No costs.

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Index : yes/no

Internet : yes/no

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V.BHAVANI SUBBAROYAN, J.

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To

1. The Principal Secretary to Government,
Health & Family Welfare (D2) Department,
Secretariate, Chennai – 600 009.
2. The Deputy Director of Health Service,
Salem.

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