



W.P.Nos.1719 and 1725 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2025

CORAM

THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

W.P.Nos.1719 and 1725 of 2025

and

W.M.P.Nos.1967, 1968, 1971 and 1973 of 2025

Dr.M.Sivaji MBBS MD DPM DM (Neuro)

... Petitioner in both W.Ps

Vs.

1. The Additional Chief Secretary to Government,
Health and Family Welfare Department,
Secretariat, Fort St.George,
Chennai – 600 009.
2. The Director of Medical Education and Research,
New Bupathy Nagar, Chetpet,
Chennai – 600031.
3. The Dean,
Rajiv Gandhi Govt. General Hospital & Madras Medical College,
EVR Periyar Salai,
Park Town,
Chennai – 600003.



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4. Dr.K.P.Saradha, MD

Inquiry Officer/Professor of Dermato, Venereo and Leprosy
Madras Medical College
Chennai – 600 003.

5. The Internal Complaints Committee (VISHAKA),
Rajiv Gandhi Govt. General Hospital & Madras Medical College,
EVR Periyar Salai,
Park Town,
Chennai – 600 003.

6. Dr.E.Theranirajan,
The Dean,
Rajiv Gandhi Govt. General Hospital & Madras Medical College,
EVR Periyar Salai,
Park Town,
Chennai – 600 003.

... Respondents in both W.Ps

Prayer in W.P.No.1719 of 2025:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for records of impugned enquiry report dated 04.07.2022 of the fifth respondent and quash the same as illegal, arbitrary and non-est in law.

Prayer in W.P.No.1725 of 2025:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for records of charge memo vide Ref.No.82341/SC1/1/2022, dated 18.02.2023 issued by the second respondent and undated enquiry report of the fourth respondent and impugned letter vide Letter No.8863236/I-1, dated 25.11.2024 of the first respondent and quash the same as illegal, arbitrary and non-est.



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For Petitioner
in both W.Ps

: Mrs.Dakshayani Reddy,
Senior Advocate
for Mr.A.Maheshnath

For Respondents
in both W.Ps

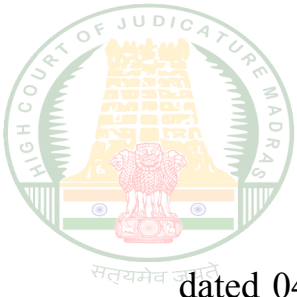
: Mrs.M.Sneha,
Special Counsel

COMMON ORDER

The writ petition in W.P. No. 1719 of 2025 was filed challenging the impugned enquiry report dated 04.07.2022, conducted by the Internal Complaints Committee.

2. The writ petition in W.P. No. 1725 of 2025 was filed as an offshoot of the above writ petition, wherein the petitioner was issued with a charge memorandum dated 18.02.2023, which eventually culminated to an undated enquiry report which was served upon the petitioner on 25.11.2024, calling for his further representation.

3. The brief facts which leads to the present writ petitions are that, few female PG students lodged complaint against the petitioner for the alleged sexual harassment meted out by them. Pursuant to this, the Internal Complaints Committee enquired the complaints and submitted its report



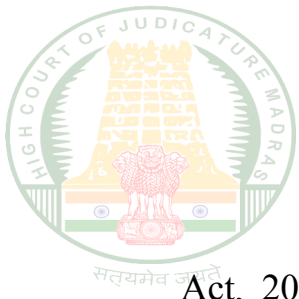
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dated 04.07.2022, holding that the complaints are proved and recommended for minor penalties under the Tamil Nadu Civil Services (Discipline and Appeal) Rules (hereinafter referred to as 'the Service Rules' for short).

3.1. The said report was forwarded to the Dean on 13.12.2022. After receiving the report, instead of proceedings for a minor penalty, a charge memorandum under Rule 17(b) of the Service Rules was issued basing reliance upon the report of the Internal Complaints Committee. In pursuance thereof, an Enquiry Officer was appointed, and upon completion of the enquiry, he submitted the report before the disciplinary authority. On receipt of such enquiry report, the petitioner was served with a impugned notice dated 25.11.2024 calling upon him to give further representation.

4. Heard the learned counsel for both sides and perused the materials available on record.

5. The learned Senior Counsel appearing for the petitioner would contend that the Internal Complaints Committee, constituted under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal)



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Act, 2013, (hereinafter referred to as 'the Act' for short) did not give an opportunity for the petitioner to cross-examine the complainants, and that based on the petitioner's qualified admission, the Internal Complaints Committee erroneously presumed and held that the sexual harassment complaints are proved against the petitioner.

5.1. It is the further submission of the learned Senior Counsel that even the copies of the complaints of the alleged victims, were not served upon the petitioner, and that the alleged complaints are hopelessly barred by limitation. She would further submit that no conciliatory effort was made under Section 10(3) of the Act.

5.2. It is the further submission of the learned Senior Counsel that, though the Internal Complaints Committee recommended a minor penalty, the second respondent issued a charge memorandum for major penalty under Rule 17(b) of the Service Rules. It is further contended that, in the absence of oral evidence of the complainant, the alleged complaint become unreliable. As such, the report of the Enquiry Officer is without any evidence and based on surmises and conjecture.



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5.3. It is the further submission of the learned Senior Counsel that the conduct of the respondents in not supplying the complaint copy, and accepting the complaints beyond the period of limitation vitiates the entire proceedings. Additionally, the finding rendered by the Enquiry Officer in the disciplinary proceedings, merely based on the defective Internal Complaints Committee's report, *ipso facto* makes his report illegal. In support of her contention, the learned Senior Counsel relied upon the following judgements:

(i) ***State of U.P. Vs. Saroj Kumar Sinha*** reported in **(2010) 2 SCC 772.**

(ii) ***Manonmanium Sundaranar University Vs. Dr.P.Govindaraju*** reported in **2022 (3) CTC 465.**

6. Per contra, the learned Special Counsel appearing for the first to third respondents would contend that the petitioner had attended the enquiry proceedings, and copies of the complaints were issued to him, vide letter dated 01.06.2022. It is the further submission of the learned Special Counsel that the petitioner himself had accepted the alleged incidents; however, he distinguished the same as if it was unintentional and by way of appreciation.



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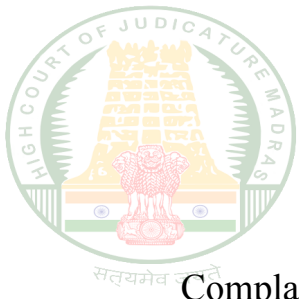
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She would further submit that the complainants are PG Doctors, who would distinguish the extent of the touch. She would further submit that the petitioner had admitted visiting the lady PG hostel rooms. Therefore, contended that the present writ petitions are premature, and that there is an appellate remedy provided under the Act.

6.1. It is the further submission of the learned Special Counsel that a mere enquiry report will not impinge upon any rights of the petitioner, hence the Writ Court should not interfere with the enquiry proceedings, unless there is a violation of natural justice, or when fundamental rights are affected or when such order was issued by incompetent person. Hence, she prayed to dismiss these writ petitions.

7. I have given my anxious consideration to either side submissions.

8. Now, this Court has to address whether is there any ground to interfere with the report of the Internal Complaints Committee and the enquiry report, which according to the petitioner solely based on the Internal Complaints Committee's report. The main thrust of the attack on the Internal



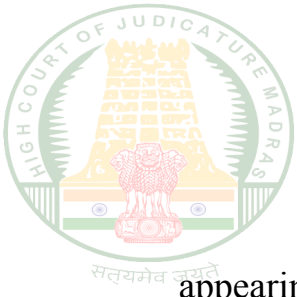
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Complaints Committee's report is that the petitioner was not given an opportunity to cross-examine the witnesses, and that he was not furnished with complaint copy. This factum was stoutly objected to by the learned Special Counsel, who would contend that on 01.06.2022 itself, the complaint copy was furnished to the petitioner, with due acknowledgement. The other grounds urged by the petitioner are that the complaint is vague and that the complaint was accepted beyond the limitation period.

9. In this regard, the learned Senior Counsel appearing for the petitioner relied upon the judgment of the Hon'ble Supreme Court of India in ***Saroj Kumar Sinha's case***, cited supra, and would contend that the failure to supply the necessary documents and non-examination of the witnesses would vitiate the enquiry report. However, looking at the facts of the reported case, the above judgement was passed in pursuance of the final order. In the case in hand, the petitioner has got opportunity to explain the same before the disciplinary authority, and they would take decision on it's own merits.

10. In addition to the above submission, the learned Senior Counsel



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appearing for the petitioner also relied upon the ***Manonmaniam Sundaranar University's case***, cited supra, and would contend that any penalty upon the delinquent should not be imposed solely based on the Internal Complaints Committee's report. Again as observed hereinabove, it is too premature to conclude that the disciplinary authority would accept the enquiry report.

11. Here it is the contention of the learned Special Counsel appearing for the first to third respondents, that the documents relied by them were served upon the petitioner, and that sufficient opportunity was provided to the petitioner for cross-examination.

12. It is a well-settled principle of law that the factual aspects and the veracity of the evidence cannot be gone into by the Writ Court, and at this stage as far as the Internal Complaint Committee's report, it is the duty of the appellate forum to re-appreciate the evidence. According to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, under Section 18 of the said Act, there is an appeal remedy provided to the petitioner. Whenever an appeal remedy is provided, unless triple test of violation of fundamental rights, violation of natural justice, and



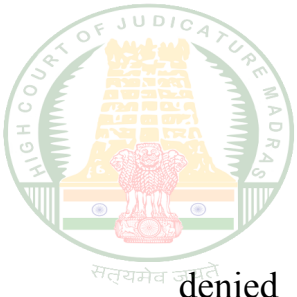
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incompetency of the authority, as held in the judgment of the Hon'ble Supreme Court of India in ***Whirlpool Corpn. v. Registrar of Trade Marks*** reported in (1998) 8 SCC 1, the Writ Court should not ordinarily interfere against the impugned orders. For ready reference, the relevant paragraph 15, which reads as follows:-

“15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this point but to cut down this circle of forensic whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field.”

13. In the case in hand, though it was urged that there was a violation of natural justice by not providing documents, which factum was stoutly



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denied by the learned Special Counsel. Therefore, the same can be ascertained only by way of re-appreciation of documents and evidence, which this Court should not undertake. Therefore, this Court deems it appropriate to give liberty to the petitioner to adjudicate all the defences that have been raised before the Writ Court before the Appellate Authority in the manner known to law.

14. Coming to the enquiry report of the disciplinary proceedings, it is the contention of the learned Senior Counsel that merely based on the unsubstantiated enquiry report of the Internal Complaints Committee, in the disciplinary proceedings, the Enquiry Officer held that the charge of sexual harassment had been proved, despite no complainants coming forward to substantiate their stand.

15. In respect of the above defence, it is the submission of the learned Special Counsel that the standard of proof before the disciplinary authority is only on the preponderance of probability, therefore, it is for the disciplinary authority to take into consideration of all the aspect before passing final order. Therefore, the findings arrived at by the Enquiry Officer cannot be



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found faulted at this stage. Apart from that, this Court does not want to adjudicate upon either side's defence at this stage, as the disciplinary authority has yet to take a call on their objections. As already stated, the Writ Court should interfere only in exceptional cases. In the case in hand, this Court does not see any exceptional circumstances to interfere at the enquiry report stage. Any interference with the Enquiry Officer's report at this stage, on the basis of questions of fact, would be nothing but usurping the power of the disciplinary authority. Accordingly, this Court does not find any merits in these writ petitions.

16. Therefore, as far as the writ petition in W.P. No. 1725 of 2025 is concerned, the petitioner is given liberty to approach the Appellate Authority, if he is so advised, within a period of two weeks from the date of receipt of a copy of this order. On filing of such appeal, the Appellate Authority is directed to dispose of the same in accordance with law.

17. Coming to the writ petition in W.P. No. 1719 of 2025, the petitioner is given further time of 15 days from the date of receipt of a copy of this order to give his further representation to the disciplinary authority,



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where the petitioner have liberty to raise all his defences both before the disciplinary authority and before the appellate forum, and the above authority are directed to pass order in accordance with law, uninfluenced by any of the observations made in these writ petitions, as the same were made only for the disposal of these writ petitions.

18. In the result, these Writ Petitions are dismissed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

15.07.2025

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Index : Yes/No

Speaking order /Non Speaking Order

Neutral Citation : Yes/No

To

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Health and Family Welfare Department,
Secretariat, Fort St.George,
Chennai – 600 009.
2. The Director of Medical Education and Research,
New Bupathy Nagar, Chetpet,
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C.KUMARAPPAN, J.

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