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W.P No. 42224 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2025

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THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.P No. 42224 of 2016

B.Mangala

..Petitioner

Vs

1.The Principal Secretary,
Government of Tamilnadu,
Health and Family Welfare (D1) Department,
Fort St. George, Chennai.

2.The Director of Public Health and
Preventive Medicine,
Chennai.

3.The Deputy Director of Health Services,
Public & Preventive Medicine Department,
Kancheepuram District, Kancheepuram.

..Respondents

Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the 1st respondent made in G.O (D) No. 980 dated 28.07.2016 and quash the same and consequently direct the 3rd respondent to reinstate the petitioner in service with all attendant benefits with seniority and pass such further other orders.

For Petitioner : Mr. V. Subramanian

For Respondents : Mrs. R.L. Karthika, GA



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ORDER

The captioned writ petition has been filed seeking the issuance of a writ of certiorarified mandamus to quash the order dated 28.07.2016 passed by the first respondent. By the said order, the first respondent, in his capacity as the Revisional Authority, modified the punishment of removal from service imposed on the petitioner to that of compulsory retirement.

2. The petitioner, while working as a Village Health Nurse, was issued a charge memo, and the charges levelled against the petitioner read as follows:

- 1. That the petitioner threatened the workers of Primary Health Centre through letters and through her husband.*
- 2. That the petitioner no attending and carrying out her duties of various health welfare schemes such as (i) Dr.Muthulakshmi Reddy Scheme for pregnant wome, (ii) School health Programme, Varummun Kapoom Thittam, Health Camps, Distribution of DEC tables, weekly check up of pregnant women, etc.,*
- 3. That the petitioner coming only on Wednesday to attend the disease prevention programmes and not coming on other days.*



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3. The explanation offered by the petitioner was not found satisfactory, and as the petitioner did not participate in the enquiry, the Enquiry Officer conducted an ex parte enquiry and held that all the three charges framed against the petitioner stood proved. The Enquiry Report was accepted by the Disciplinary Authority, and an order of removal from service was passed. The said order was challenged by the petitioner before this Court in W.P. No.11224 of 2005. In the said writ petition, the petitioner specifically pleaded that the Enquiry Officer was biased. Accepting the said plea, a Coordinate Bench of this Court, by order dated 12.10.2009, allowed the writ petition, set aside the order of removal from service, and remanded the matter to the first respondent therein to decide the bias petition and thereafter entrust the matter to the competent authority to proceed with the enquiry and complete the same within a period of three months.

4. Pursuant to the order passed by this Court, the enquiry was entrusted to the third respondent. The third respondent submitted the Enquiry Report stating that the petitioner had demonstrated carelessness in public service, disobedience to the orders of senior officials, and misconduct in the presence of colleagues. It was further observed that during the investigations conducted on 12.04.2002, 08.11.2010, and 30.12.2011, the petitioner did not appear for the



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enquiry on 12.04.2002, and on the enquiry dates held on 08.11.2010 and 30.12.2011, the petitioner left without signing the enquiry proceedings.

5. Thereafter, the third respondent, who conducted the enquiry, and the Disciplinary Authority passed an order of removal from service, against which the petitioner preferred an appeal before the Appellate Authority. However, the first respondent modified the punishment. Aggrieved by the same, the present writ petition has been filed.

6. Learned counsel for the petitioner submitted that the impugned order of punishment stands vitiated for non-compliance with Rule 17(b)(1) of the Tamil Nadu Government Servants' Conduct (Discipline and Appeal) Rules, which mandates that before imposing any major penalty, definite charges must be framed and communicated to the delinquent employee, reasonable time must be granted to submit a written statement of defence, and the charges must be proved through evidence and witnesses.



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7. In the present case, the charges framed against the petitioner are vague and not specific. The departmental enquiry was conducted without proving the charges by examining witnesses, and the order of punishment was passed solely on the ground of the petitioner's non-appearance during the enquiry, and not on the basis of the charges framed. The learned counsel further submitted that the third respondent, who conducted the enquiry, also acted as the Disciplinary Authority and passed the order of punishment, and therefore, the impugned order is not legally sustainable. In the absence of cogent evidence to substantiate the allegations, the punishment of compulsory retirement imposed on the petitioner is unsustainable in law and liable to be set aside.

8. Per contra, the learned counsel for the respondents submitted that on an earlier occasion, after a full-fledged enquiry, the very same charges had been proved. Upon remand by this Court, the Enquiry Officer submitted a report stating that the petitioner did not cooperate with the enquiry, leaving the Enquiry Officer with no option but to submit the report accordingly. The Disciplinary Authority rightly accepted the Enquiry Report, which does not warrant any interference. The Revisional Authority, having regard to the facts and circumstances of the case, showed indulgence by modifying the



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punishment of removal from service to compulsory retirement. Therefore, the present writ petition is devoid of merits and liable to be dismissed.

9. The submissions advanced by the learned counsel for the parties and the materials placed on record have been duly considered.

10. Admittedly, the matter was remanded to the first respondent to consider the bias petition filed by the petitioner in respect of the three charges framed against him. The first respondent appointed the third respondent as the Enquiry Officer. In the Enquiry Report, the Enquiry Officer categorically stated that the petitioner did not appear on 12.04.2002, 08.11.2010, and 30.12.2011, did not sign the enquiry proceedings, and did not cooperate during the course of the enquiry. Except for stating that the petitioner did not cooperate with the enquiry, the Enquiry Officer has not examined any of the prosecution witnesses to substantiate the allegations against the petitioner. The Enquiry Report merely states that the petitioner, who was charged, demonstrated carelessness in public service, showed disobedience to the orders of senior officials, and behaved in a manner detrimental in the presence of colleagues.



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11. Based on the said Enquiry Report, the third respondent issued a second show cause notice to the petitioner. In response, the petitioner submitted his explanation. After considering the Enquiry Report and the explanation submitted by the petitioner, the third respondent reiterated the allegations and passed an order dismissing the petitioner from service, not on the basis of the charges framed against him, but solely on the ground of the alleged non-cooperation of the petitioner during the course of the enquiry. The respondents have not examined any witnesses to substantiate the allegations against the petitioner, and the charges framed against him are wholly indefinite and vague in nature.

12. A reading of Rule 17 (b)(1) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules clearly indicates that before imposing any major punishment, the authority must first frame clear and specific charges and inform the employee about them. The employee must be given enough time to give a written explanation and to state whether he wants a personal hearing or enquiry.

13. If the employee does not admit the charges, then an enquiry is compulsory. The charges must be proved by examining witnesses. The



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employee has the right to cross-examine those witnesses and to produce witnesses in his defence.

14. After the enquiry, the Enquiry Officer must prepare a proper report giving the evidence, findings, and reasons. If the Enquiry Officer is changed midway, the new officer can use the existing evidence but may recall witnesses if necessary for justice.

15. However, in the present case, a plain reading of the charges shows that they are not definite but are extremely vague. The charges were also not accompanied by a statement of allegations on which each charge was framed. The aforesaid rule further mandates that even if the delinquent employee waives an oral enquiry, such an enquiry shall be held by the concerned authority in respect of charges which are not admitted by the person charged.

16. Even if the petitioner did not participate in the enquiry, the rule mandates that oral evidence shall be recorded in respect of the allegations which are not admitted, and the person charged shall be entitled to cross-examine the witnesses, to give evidence in person, and to have such witnesses called as he may desire, subject to the authority conducting the enquiry recording special and sufficient reasons in writing for refusing to call any



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witness. The charges, which are not admitted, are therefore required to be proved only through proper evidence and examination of witnesses.

17. In the present case, none of the prosecution witnesses were examined to substantiate the allegations against the petitioner. The Enquiry Report merely states that the petitioner demonstrated carelessness and non-cooperation during the course of the enquiry, and there is no specific finding that the charges framed against the petitioner were proved. The third respondent, who acted both as the Enquiry Officer and the Disciplinary Authority, has only reiterated the contents of the Enquiry Report without assigning any independent reasons for holding that the charges against the petitioner stood proved. In complete violation of Rule 17(b)(1) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, the Disciplinary Authority proceeded to impose the punishment of removal from service. The Appellate Authority and the Revisional Authority, without considering the factual and legal aspects in their proper perspective, have mechanically affirmed the finding that the charges stood proved.

18. In these circumstances, the impugned order passed by the first



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respondent is clearly contrary to the settled principles of service jurisprudence founded on equality, fairness, and transparency. The impugned order is also in violation of Rule 17(b)(1) of the Rules and Article 311(2) of the Constitution of India. Therefore, the impugned order is not legally sustainable and is liable to be set aside.

19. Accordingly, the following order is passed:

- (i) The writ petition is allowed. The impugned order passed by the first respondent is hereby set aside.
- (ii) As it is stated that the petitioner has already attained the age of superannuation, the petitioner shall be entitled to all consequential benefits flowing from this order, including continuity of service, pension and pensionary benefits, and other attendant benefits. However, the petitioner shall be entitled to 50% of the back wages from the date of termination till the date of superannuation.
- (iii). The aforesaid exercise shall be completed within a period of four (4) months from the date of receipt of a copy of this order.
- (iv). No costs.

02.12.2025

Index : Yes/No

Internet : Yes/No
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HEMANT CHANDANGOUDAR, J.

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