



W.A.(MD)No.1007 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.12.2025

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MRS.JUSTICE R.KALAIMATHI**

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S.Ramaiyan

... Appellant

Vs.

1.The Government of Tamilnadu,
Rep.by its Secretary,
Public Health and Welfare Department,
St.George Fort, Chennai.

2.The Director of Medical Education,
Chennai.

3.The Dean,
Thanjavur Medical College Hospital,
Thanjavur.

... Respondents

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order passed in W.P.(MD).No.12615 of 2009 dated 08.03.2019 on the file of this Court.

For Appellant : Mr.MA.Karunanithi

For Respondents : Mr.S.Shaji Bino,
Spl. Government Pleader.



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JUDGMENT
(By G.R.SWAMINATHAN, J.)

Heard both sides.

2.The writ petitioner was employed as Record Assistant in Thanjavur Medical College Hospital, Thanjavur. He was charged with having assisted the students of the medical college in committing malpractices in examination in August, 2022. Charge memo was issued on 14.12.2002. The writ petitioner after receiving the charge memo did not deny the charges framed against him. On the other hand, he pleaded guilty and sought forgiveness. Since the nature of misconduct committed by the writ petitioner was too grave to be condoned, the Director of Medical Education, Chennai dismissed the writ petitioner from service vide order dated 13.12.2005. Aggrieved by the same, appeal was filed before the Government. Since the Government did not dispose of the writ petitioner's appeal, he filed a writ petition and obtained a direction for speedy disposal of his appeal. Pursuant to the said direction, the Government vide G.O.(D)No.947 dated 07.08.2008 confirmed the order of punishment imposed on the writ petitioner. Challenging the same,

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W.P.(MD)No.12615 of 2009 was filed. The learned Single Judge dismissed the writ petition vide order dated 08.03.2019 in the following terms:-

“9.In the case on hand, the petitioners have been charged under Rule 20 of the Tamil Nadu Government Servants' Conduct Rules, 1973, which reads as follows:-

“INTEGRITY AND DEVOTION TO DUTY

(1) Every member of the Service shall at all times maintain absolute integrity and devotion to duty and shall do nothing which is unbecoming of a member of the service.

(2) Every member of the Service shall take all possible steps to ensure integrity and devotion to duty by all Government servants for the time being under his control and authority.

3.(i) No Government servants shall in the performance of his official duties or in the exercise of powers conferred on him, act otherwise than in his best judgement except when he is acting under the direction of his official superior.

(ii) The direction of the official superior shall ordinarily be in writing, Oral directions to Subordinates shall be avoided. Where the issue of oral direction becomes unavoidable the official superior shall confirm it in writing immediately thereafter.

(iii) A government servant who has received oral directions from his official superior shall seek confirmation of the same in writing as early as possible, where upon it shall be the duty of the official superior to confirm the direction in writing.

(iv) No Government servant shall, in the performance of his official duties or in the exercise of powers conferred on him evade the responsibility devolving legitimately on him and seek instruction from, or approval, of a superior authority when such instruction



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or approval is not necessary in the scheme of distribution of powers and responsibilities.

Explanation - A Government servant who habitually fails to perform a task assigned to him within the time set for the purpose and with the quality of performance expected of him shall be deemed to be lacking in devotion to duty within the meaning of sub rule (1)."

*10. In service jurisprudence, it is settled law that the onus of proof rests upon the party alleging the invalidity of an order. In other words, there is a presumption that the decision or executive order is properly and validly made unless and until the said order is disproved by the party who opposes it. It is based on a legal maxim 'omina praesumuntur rite esse acta' which means all facts are presumed to be done in due form. The Hon'ble Supreme Court in the case of **G.M. operations and another Vs. R.Periyasami**, has held that an administrative authority cannot be put to prove the facts or conditions on which the validity of its order must depend, unless the respondent can produce evidence which will shift the burden of proof on the shoulders of the administrative authority. Further, in all matters involving service jurisprudence, disputes are adjudicated on preponderance of probabilities. In the case on hand, the finding of the authorities below is based on the admission of guilt by the petitioners in the explanation given by them to the charge memos as well as before the enquiry officer, namely, the Deputy Superintendent of Thanjore Medical College. The charge level against the petitioners are also serious namely misuse of answer papers unlawfully benefiting the students by not*



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bringing the sealed parcel of answer papers to the post office. The said charges are indeed serious in nature corrupting the minds of the students and also corrupting the educational system.

11.Rule 20 of the Tamil Nadu Government Servants' Conduct Rules, 1973, makes it clear that at all times every member of the service shall maintain absolute integrity and devotion to duty and shall do nothing which is unbecoming of a member of the service. In the case on hand, the burden of proof has been shifted to the petitioners to prove their innocence in view of the fact that they themselves have admitted their guilt as per the statement of the respondents. No contra evidence has been produced before the authorities below by the petitioners to disprove the statement of the respondents that the petitioners have admitted their guilt. Even though, the petitioners have stated that the admission of guilt were given by them under coercive and undue influence, no evidence is available on record to prove the said statement.

12.The authorities below have considered all these aspects and thereafter, have come to the concurrent finding that the petitioners are guilty of the charges levelled by the third respondent against them. This Court under Article 226 of the Constitution of India, cannot re-appreciate the evidence, unless and until the finding of the authorities below are perverse. This Court does not find any merit in these writ petitions as there is no infirmity in the findings of the authorities below.”

Questioning the same, this writ appeal has been filed.



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3.The only question that calls for consideration is whether the order of the learned Single Judge warrants interference.

4.The learned counsel for the appellant submitted that the writ petitioner had pleaded guilty under coercive circumstances and this was later retracted. The learned counsel for the appellant further submitted that the government had not properly considered the retraction made by the delinquent.

5.This submission is without merit. Any retraction has to be made at the earliest point of time. In this case, the admission of guilt was made on 29.11.2004. The retraction was made only on 23.03.2006. There is absolutely no explanation for this unreasonable delay. Only when the delinquent contests the charges framed against him, the question of holding enquiry or affording the opportunity of principles of natural justice would arise. When the delinquent himself concedes that he had committed an act of misconduct and pleads only for mercy, the question of holding enquiry does not arise at all. The learned Single Judge rightly



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approached the issue. Interference with the said order is not warranted and the writ appeal is dismissed. No costs.

(G.R.S. J.) & (R.K.M. J.)
02.12.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:

- 1.The Secretary,
Public Health and Welfare Department,
St.George Fort, Chennai.
- 2.The Director of Medical Education,
Chennai.
- 3.The Dean,
Thanjavur Medical College Hospital,
Thanjavur.



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