



W.P(MD)No.14893 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.12.2025

CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.14893 of 2024

and

W.M.P.(MD)No.13051 of 2024

T.Mallika

... Petitioner

Vs

**1. The Director of Medical And Rural Health Services,
Chennai - 600006,
Tamilnadu.**

**2. The Joint Director (Health Services),
Office of the Joint Director of Health Services,
Thoothukudi,
Thoothukudi District.**

**3. The Chief Resident Medical Officer,
Government General Hospital,
Thiruchendur,
Thoothukudi District.**

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to impugned charge memo Na.Ka.No. 3840 / Ni1/2023 dated 04.08.2023 issued by the 2nd Respondent and



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subsequent proceedings of the 1st Respondent in Ref.No. 48584/SC2/3/2023 dated 11.06.2024 and quash the same being illegal, invalid, without jurisdiction and violated the principles of natural justice and contrary to the law and consequently set aside the same.

For Petitioner : Mr.V.Rajiv Rufus,

For Respondents : Mr.C.Venkatesh Kumar
Special Government Pleader

ORDER

This writ petition has been filed seeking to quash the impugned charge memo Na.Ka.No.3840/Ni1/2023 dated 04.08.2023 issued by the second respondent and the subsequent proceedings of the first respondent in Ref.No. 48584/SC2/3/2023 dated 11.06.2024.

2.The petitioner, an Assistant Surgeon in Government General Hospital in Tiruchendur, was issued with a charge memo on 04.08.2023 that he has violated the conduct rules and was issued with a consequential notice for enquiry, dated 11.06.2024.



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3.A pregnant woman was referred from a Primary Health centre to the Government Hospital, Tiruchendur on 11.06.2020. When she was admitted in the Government Hospital, Tiruchendur, she was in labour pain and the lady has also delivered a male baby. The petitioner has failed to attend the pregnant lady at that relevant point of time and therefore, the charge memo has been issued.

4.The petitioner has challenged the charge memo on the ground of delay and laches and also on malafide. For the occurrence said to have taken place in the year 2020, the charge memo was issued in the month of August 2023 and therefore, the learned Counsel for the petitioner submits that the charge memo has been issued with delay. He also submits that one Murasu Tamilappan a member of a political party has lodged a complaint and therefore, the disciplinary proceedings has been initiated against the petitioner. The respondents have acted as per the wish of the said complainant.

5.The learned Special Government Pleader appearing for the respondents submits that one Murasu Tamilappan preferred a complaint on 16.06.2020. To enquire into the above complaint, the Director of



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Medical and Rural Health Service, Chennai/first respondent appointed the Joint Director of Health Service, Thoothukudi to conduct fact finding enquiry into the complaint. The fact finding enquiry was conducted on 01.10.2020 at Government Hospital, Tiruchendur and the fact finding enquiry report was submitted to the first respondent vide Na.Ka. No. 2170/Ni1/2020 dated 15.03.2021, stating that one Chithirakala, a pregnant woman W/o. Thiru.Ramachandran was admitted in Government Hospital, Thiruchendur at 1.30 PM on 11.06.2020 who was referred from Paramankurichi Primary Health Centre for further treatment. The duty Staff Nurse had informed about the admission of the pregnant woman over phone to the writ petitioner. In the mean time the duty Staff Nurse had conducted necessary tests for delivery. Thereafter, the night duty staff nurse had conducted ANC test for the pregnant woman at about 07.30 PM. Since the pregnant lady experienced labour pain at about 10.00 PM, she was taken to delivery room and on being checked-up they found that the uterus was found open for 4 cm and hence, she called the duty doctor/writ petitioner over phone at about 12.45 a.m and informed about it. The writ petitioner has instructed the duty staff nurse to keep the operation theatre ready for caesarian surgery. In these circumstances, at about 01.14 AM on 12.06.2020, the pregnant lady delivered a live



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male baby by normal delivery. Since the baby was found with two loops cord around the neck and it was not weeping, the duty staff nurse has informed about it over phone to the Paediatrician, who came to the hospital and after check-up, the new born baby was referred for further treatment at 03.00 AM on 12.06.2020 to Thoothukudi Government Medical College Hospital, where the baby had died on 14.06.2020 inspite of treatment.

6.This Court considered the rival submissions made and also perused the materials placed on record.

7.A pregnant lady who was admitted in the Government Hospital, Tiruchendur on 11.06.2020, delivered a baby. But she was not attended by the doctors and therefore, she had some complications and was referred to Government Medical Hospital, Thoothukudi, where the child died on 14.06.2020. No doubt, for the occurrence said to have taken place on 11.06.2020, the charge memo was issued on 04.08.2023. But delay, by itself, cannot be a reason to interfere with the charge memo. In this case, after the death of the child on 14.06.2020, the relatives of the child have lodged a complaint on 16.06.2020. Based on which, a fact



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finding committee has conducted an enquiry and submitted its report.

Based on the enquiry report, dated 15.03.2021, the consequential action of issuing the charge memo was taken place. Therefore, this Court is not inclined to accept the grounds raised by the petitioner to quash the proceedings which is pending as against the petitioner.

8. Accordingly, this writ petition is dismissed with liberty to the petitioner to raise all these grounds before the Enquiry Officer. No costs. Consequently, the connected miscellaneous petition is closed.

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

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