



W.P(MD)No.19164 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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Reserved on : 30.01.2025

Pronounced on : 16.05.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.19164 of 2022 and
WMP(MD) Nos.13979 & 13980 of 2022

K.Murugan

... Petitioner

Vs

1.The Executive Officer,
Selection Grade Town Panchayat,
North Valliyoor,Tirunelveli District.

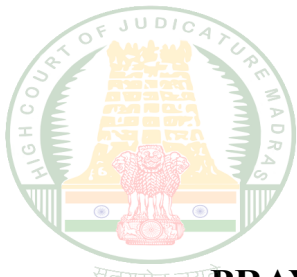
2.The Secretary,
Municipal Administration and Water Supply Department,
Chennai.

3.The Additional Superintendent of Police,
Organized Crime Unit,
Crime Branch CID,
Tirunelveli.

4.The President,
Tamil Nadu Medical Council,
No.959 & 960, Poonamallee High Road,
Purasaiwakkam, Chennai.

...Respondents

(R2 to R4 are suo motu impleaded vide Court orders, dated 12.11.2024, 25.11.2024 and 03.01.2025 by BPJ)



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, by calling for the entire records pertaining to the proceedings of the respondent in Na.Ka.No.415/2015, dated 28.12.2015 and quash the same and consequently direct the respondent to reinstate the petitioner into service in the post of sanitary worker at the respondent's Panchayat.

For Petitioner	: Mr.R.Anand
For R1	: Mr.H.Arumugam
For R2 & R3	: Mr.R.Balasubramani
For R4	: Mr.C.Karthick

ORDER

The petitioner, who was appointed as a Sanitary worker in Valliyur Selection Grade Town Panchayat, through the District Employment Exchange on 21.01.2011, was placed under suspension on 28.12.2015 and he was also issued with a charge memo on 11.04.2016 that he has obtained the appointment as a sanitary worker with fake disability certificate. The order of suspension in Na.Ka.No.415/2015, dated 28.12.2015 was challenged in this writ



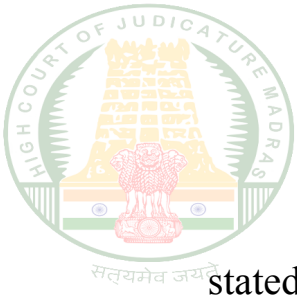
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petition in the year 2022 that the Department has not conducted any enquiry, pursuant to the charge memo, dated 11.04.2016 and he was under the prolonged suspension from the year 2015.

2.The learned counsel for the petitioner contented that this petitioner was appointed under the category of Scheduled caste and not under the disabled quota. The learned counsel has relied on the order passed by this Court in WA(MD) No.1467 of 2015 and 1468 of 2015, dated 23.09.2016, wherein, similar suspension orders issued as against the other sanitary workers, who were appointed under the category of disabled persons were set aside by this Court. The same ratio has also been followed in WP(MD) Nos. 24603 and 24604 of 2016, dated 23.01.2018. Therefore, the learned counsel requests that the order of suspension issued as against this petitioner, dated 28.12.2015 is also liable to be set aside.

3.The Executive officer, Special Grade Town Panchayat, Valliyur /the first respondent herein, in his counter affidavit has



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stated that the petitioner was appointed as Sanitary worker on 21.01.2011, under the physically challenged person quota, on production of certificate of physical disablement and as such he worked from 21.01.2011 until 27.12.2015. Similarly, various other persons namely, Sundar, Kannan and many others have also got employment under the physical disability quota. However, it came to their knowledge that it was a scam by creating a false disability certificate and without having any real disability, many persons have got appointments all over the District.

3.1.The learned counsel for the first respondent /the Executive Officer of the Selection Grade Town Panchayat submits that since the issue of fake disability certificate was racked up, the petitioner was referred to the Medical Board. The Medical Board has stated that the petitioner is not having any disability, as projected in his certificate and therefore, he was placed under suspension and he was also issued with a charge memo, on 11.04.2016. The learned counsel further submits that this petitioner had also falsely created a



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record that he is residing at Valliyoor Panchayat, however, he is the resident of Alangulam Panchayat, which is 75 kms away from Valliyur. The learned counsel has denied the averments made by this petitioner that the Department has not conducted any enquiry pursuant to the charge memo, dated 11.04.2016. According to him, after suspension i.e. on 28.12.2015, the respondent has sent a notice dated 13.05.2016 to the petitioner, seeking an explanation from him for the charge memo and the same was received by him on 24.05.2016. However, he has not replied. Thereafter, the respondent has issued another notice, dated 05.07.2016 for enquiry, but the same was returned with endorsement "left". Yet another notice, dated 08.12.2016 was issued, and it was also returned. Thereafter, on 04.04.2017, the respondent has once again sent a notice and the same was returned with an endorsement "unclaimed". According to the learned counsel, having not participated in the enquiry and prolonged this issue for over a period of time and later filed this writ petition in the year 2022, it is not proper on the part of this petitioner to claim that he was placed under suspension without enquiry.



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4.In reply, the learned counsel for the petitioner submits

that this petitioner was appointed as Sanitary worker under the Scheduled Caste quota and not under the disabled quota, however, he was issued with a charge memo that he got appointment with a fake disability certificate. By referring to the orders of this Court as stated supra, the learned counsel seeks parity that similarly placed persons in other Panchayats have got orders in their favour.

5.This writ petition was filed only as against the first respondent/Executive Officer of the Selection Grade Town Panchayat, Valliyoor. The available materials disclose that not only this petitioner, but also several others have got appointments with fake disability certificates. Therefore, this Court by its earlier order, dated 12.11.2024, *suo motu* impleaded the Secretary, Municipal Administration and Water Supply Department as a party to this writ petition and directed the learned Special Government Pleader to get instructions from the Secretary as to the allegations on the appointments made with fake disability certificates.



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6.The Secretary, Municipal Administration and Water Supply Department has responded with a report dated 22.11.2024 that in between 01.01.2005 to 31.12.2015, totally 103 appointments were made in the Town Panchayats within Tirunelveli District under the Disability quota and on the complaint of Dr. Chandrasekar, a Civil Surgeon, Tirunelveli Medical College Hospital that in his name, a fake certificate has been issued, a criminal case was registered on the file of the Tirunelveli Medical College Police Station in Crime No.85 of 2015 for the offence under Sections 466, 468, 471, 473, 474, 476, 420, 120(b) and 419 IPC. The investigating officer by his letter, dated 31.05.2015 informed the Assistant Director of Town Panchayats, Tirunelveli that several persons have obtained appointments, using fake disability certificates. Therefore, all 103 persons, who were appointed under the priority quota as physically challenged persons in between 2005 to 2015 were referred to the Medical Board. The Medical Board has given a certificate that out of 103 persons, 25 are physically challenged

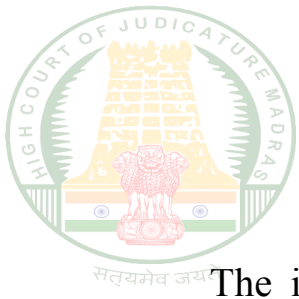


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persons and eligible for appointment under the priority quota for disabled persons. The remaining 78 persons are not physically challenged and therefore, the Department has found that all the 78 persons have obtained fake disability certificates and obtained jobs in the Panchayats. Therefore, necessary action was taken by issuing suspension orders and also charge memos, against those who were appointed with fake disability certificates. However, in view of the pendency of the criminal case, the Disciplinary authorities have not proceeded further with the disciplinary proceedings initiated as against those persons.

7. In view of the report of the Secretary to Government and in order to ascertain the stage of the investigation in Crime No. 85 of 2015, this Court, by its order, dated 25.11.2024, has impleaded the Additional Superintendent of Police, Organized Crime Unit, Crime Branch CID, Tirunelveli as a party to this writ petition and directed the learned Special Government Pleader to find out the stage of the investigation, which was registered in the year 2015.



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The investigation officer has filed a report that the doctors, who issued the disability certificates have denied the signatures found in those disability certificates and therefore, the signatures were sent to the Forensic Science Laboratory for verification and they are awaiting for the report from the RFSL. The CBCID has filed additional report on 03.01.2025 as under:-

11. From the report of RFSL, Madurai in T.No: 9281/17, Doc. No: 281/17 Dated 31.12.2020, it clearly reveals that the following Govt. Medical Officers 1) Dr. Udhaya singh, 2) Dr. M.Senthil Kumar, 3) Dr.Rama Krishnan, 4)Dr.RamaGuru, 5)Dr.Jeslin, 6)Dr. G. Ramanujam, 7)Dr.Kishore Kumar Jaccob, 8)Dr.S.Maheswaran, 9)Dr.A. Shanmugaiah, 10) Dr.S.Ganapathy, 11) Dr. Suresh Kumar, 12) Dr.J.Abraham James, 13)Dr.Sundara Pandian were signed and issued the false medical certificate knowingly aiding the accused (Town Panchayath Job Beneficiaries) to obtain a National Disability Identity card fraudulently and joining the post under the differently abled quota reservation in Town Panchayath. Above doctors all are public servants conspired with other accused in the furtherances of conspiracy above doctor's framing the Disability certificates believes to be incorrect, and knowing it to be likely cause injury to any real physically challenged person and thereby cheated Government authority.



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12.The investigation revealed that A-1 Sankar, A-2 Thangavel, A-3 Murugan and A-4 Ramachandran were conspired with other accused and in furtherance of the conspiracy A-1 to A4 with intent to create forged disability certificates and forged the signature of the Medical officer with seal in order to get job in Government (Town Panchayath) in the disability reservation quota and they are making counterfeit seal with an intent to create forgery certificate.

13.The total number of (A-5-A80) 76 Beneficiaries in this case, conspired with other accused and in furtherance of conspiracy they were non-disabled persons claimed to be a person with required percentage of Disability, through getting the false medical opinion knowingly from the medical board team doctors of Tirunelveli Government Medical College Hospital, Tenkasi Government Hospital and fraudulently obtained a false National Disability Identity card with respectively serial numbers from the Differently abled Welfare Office, Tirunelveli and registered the said card as registration numbers respectively in the Tirunelveli District Employment Office with the intention of fraudulently joining the post under the differently abled quota reservation.

14.(A-81 to A-106) 26 Executive Townpanchayat officers and (A-107 to A-175) 69 Townpanchayat President and Members conspired with other accused and in furtherance of conspiracy they did not follow the Government order and rules and regulation of selection of the candidates in the respective vacant post, they are all public servant framing the incorrect



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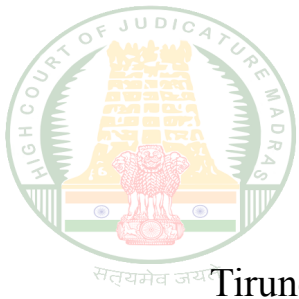
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appointment order knowingly cause injury to real disabled person and they are aiding the other accused to get the Government job through the forgery medical disability certificates (NDI cards).

15.The investigation revealed that (A-176 to A-188) 13 Government Medical Officers conspired with other accused in the furtherance of conspiracy above doctor's framing the Disability certificates believes to be incorrect, and knowing it to be likely cause injury to any real physically challenged person and thereby cheated Government authority.

16.A-189 Tr.Manoharan District Differrenity abled welfare officer, Tirunelveli in the alleged period 2005 to 2015 is conspiracy with other accused and in furtherance of conspiracy in order to facilitate beneficiaries (A-5 to A-80) to obtain a National Disability Identity card fraudulently and joining the post under the differently abled quota reservation in 27 Town Panchayaths in Tiurnelveli District and thereby caused wrongful loss to the government and wrongful gain to the beneficiaries accused. Hence, A-189 who were approving and issuing the National Disability Identity Card to the non disable persons knowing to injury to the real disability persons.

7.1. According to the investigating officer, all these appointments have been made by the Selection Committee of

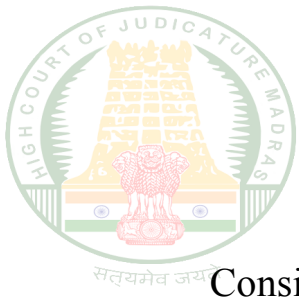


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Tirunelveli District Town Panchayat, consisting of the Executive Officer, Panchayat President and Panchayat member and also in violation of G.O.(MS) No.208- Revised 200 point Roster System and against the instructions of the District Employment Office. It is also stated that they have completed the investigation, sent their final report to the Head Quarters for their approval on 02.12.2024 and the same was approved by the Head Office, on 23.12.2024. Requests have been made to obtain necessary sanction for prosecution from the Director of Medical and Rural Health Services, Chennai, as against the doctors and other officers, who involved in the offence. From the report of CBCID, it appears that 13 Government Medical officers conspired with other accused issued fake disability certificates. Consequently 78 persons, who are not having any disability have been appointed under the Disability quota. By this fake disability certificates, the opportunity of the disabled persons were snatched away by the ineligible persons. In fact, the entire fraud has been played with the disability Certificates issued by the doctors, who are working as Government medical officers.

12/24



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Considering the extent and impact of the fraud, this Court has also impleaded the Tamil Nadu Medical Council, as a party to this writ petition and expected its response on the allegations, which were found to be verified and ascertained by the CBCID. The Medical Council has responded by its report dated 27.01.2025 that show cause notices were issued as against those doctors, who issued the fake certificates, as per Regulation 8.2 of the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002, based on the findings of the CBCID and the RFSL report. It is also reported that a Disciplinary Committee is appointed to examine the allegations and by following the principles of natural justice, further course of action would be taken. The Medical Council also assured that the enquiry would be conducted with complete transparency and in adherence to the procedural requirements and necessary action would be taken as against those committed fraud by issuing fake disability certificates.



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7.2.The President of the Tamil Nadu Medical Council

has also stated that as per Regulation 7.7 of the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002, if the allegations as against the registered medical practitioners are found to be true, then their names would be deleted from the Register. It is also stated that the issuance of fraudulent disability certificates by the Medical practitioners amounts to professional misconduct under Regulation 7.7 and therefore, they are liable to be penalised by cancellation of their registration in the Medical Council.

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

9.The Government, to ensure that the persons with disabilities enjoy the right to equality, life with dignity and respect for his/her integrity equally with others and also to ensure that those persons are not discriminated, has enacted a Rule, called "The



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Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995". This Act was replaced by "The Rights of Persons with Disabilities Act", which was enacted in 2016 and came into force on April 19, 2017. Even before, the Rules which are in force and the Act mandates every Government to provide minimum 4% of reservation in all the Government employments, wherever, it is possible for the disabled persons. It appears that the petitioner and other 78 persons were appointed under Disabled quota that they are having disability more than 40%. However, the Certificates issued for the petitioner and other 78 others were found to be fake. A Criminal prosecution was initiated in the year 2015, however the final report is yet to be filed before the Court. The investigating Agency, namely, CBCID, has found that 13 Government medical officers have indulged in this fraud, by issuing fake disability certificates, which were used by the petitioners and 78 others for getting Government employments.



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10.The petitioner has approached this Court that he was wrongly suspended and charge memo was issued, as if, he has obtained the employment based on a fake disability certificate. He claims that he got the employment under the Scheduled caste quota and not under the disabled quota. His further grievance is that the suspension order issued as against him in the year 2015 has not been concluded. The respondents claimed that the petitioner has evaded the enquiry and in view of the pendency of the investigation, they have not proceeded with the disciplinary proceedings. Pendency of a criminal proceeding is not a bar to the Department from proceeding with the disciplinary proceedings. This has been reiterated in various judgments of the Honourable Supreme Court and by this Court. The respective Head of the Department have also issued Circulars in this regard. However, by referring the criminal proceedings, the Departmental proceedings are kept pending without any progress, in order to favour the delinquent officers.



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11.The Criminal case was registered originally in Crime No.85 of 2015 on the file of the Tirunelveli Medical College Hospital Police Station, based on a complaint from a doctor of Tirunelveli Government Medical College. The investigation officers in Crime No.85 of 2015 had conducted substantial investigation in the year 2015 itself and arrested 10 accused and seized 19 numbers of fake National Disability cards, nine rubber stamp seals etc., The seized materials were placed before the Judicial Magistrate No.I, Tirunelveli on 25.05.2015. In this circumstances, as per the proceedings of the Additional Director General of Police, CBCID, Chennai in RC.No.C1/532/014205/2015, dated 01.09.2015, the case was transferred from the file of the Tirunelveli Medical College Hospital Police Station to Tirunelveli CBCID and it was renumbered as CBCID Crime No.3 of 2015 on 07.09.2015. It appears that after the transfer of investigation, there was no progress.

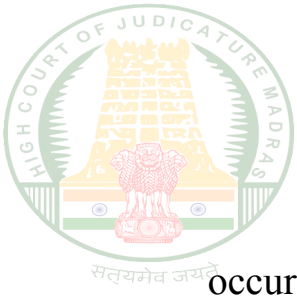
12.Though the case was transferred in the year 2015 after substantial investigation by the Tirunelveli Medical College



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Hospital Police Station, there was no investigation in the CBCID for the past 10 years. CBCID is putting the blame on the Forensic Department that the reports required by the investigating Agency were not furnished by RFSL. This Court unable to accept the reasonings offered by the CBCID. At the same time, if this unnecessary delay occurred in RFSL, it needs to be addressed by taking appropriate action as against the concerned officials. This Court expects the Home Department to issue necessary directions to the Regional Forensic Science Laboratories located all over Tamil Nadu, by prescribing a time line for the reports. If anybody causing unnecessary delays and stalling the investigation, including the RFSL, they have to be considered as "abettor of crime" and it needs to be addressed by the investigation agency. The reputation of the investigation agency lies on its effective investigation and proper prosecution. Now it is reported that the investigation has been completed and approved by the Head office. However, the final report is yet to be filed before the Court, awaiting sanction of prosecution from the concerned Department. Considering the delay



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occurred in this case, this Court expects the concerned officers to grant sanction for prosecution as expeditiously as possible, without any further delay.

13.In view of the reports filed by the respondents and the foregoing discussions, this petitioner is not entitled for any relief from this Court and accordingly, **this writ petition is dismissed.**

14.The disabled persons are provided reservations in the Government establishments as mandated under the Right of persons with Disabilities Act, 2016. Apart from the employment, the Central and State Governments provided various other benefits to those, who were challenged with disability. Financial assistance and unemployment allowances, concession on transportation, reservation in education, incentives for self employment are provided to encourage the disabled persons and that they are not discriminated. However, the object of the such schemes would be defeated, by the fake disability certificates issued in this case. The rights and



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concessions accrued on the disabled persons were snatched away by some ineligible persons with the help of few doctors and that needs to be addressed firmly by the CBCID, Family and Health Department and also by the Medical Council.

15. There is no uniformity in assessing the percentage of disability. The persons who are having more than 40% disability are treated as the persons with benchmark disability. The Department of Empowerment of persons with disabilities under the Ministry of Social Justice and Empowerment, Government of India has issued certain guidelines for assessing and evaluating the disabilities and the procedure for certification of various disabilities and the same has to be scrupulously followed. It is the responsibility of the Family and Health Department and the Medical Council to issue necessary Circulars to all the Civil surgeons, Medical Boards as to the manner, in which the assessment of disability has to be made and the certificates have to be issued, thereby, this type of fraud can be eradicated in future.



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16.Considering the larger issue involved, this Court issues the following directions:-

- i. The disciplinary proceedings as against this petitioner shall be concluded within a period of three months from the date of receipt of a copy of this order. Not only as against this petitioner, appropriate action needs to be taken as against all others, who are involved in this offence.
- ii. This Court also expects a proper course of action from the Medical Council as against the erring Medical Officers and to ensure that this type of fraud is not repeated again.
- iii. The Medical Council shall ensure that the guidelines issued by the Ministry of Social Justice and Empowerment in assessing the disabilities are scrupulously followed by the doctors, while issuing the disability certificates.



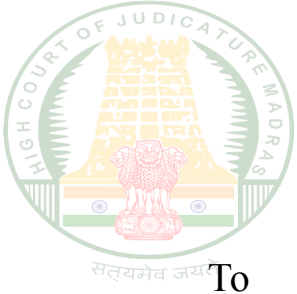
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No costs. Consequently, connected Miscellaneous petitions are closed.

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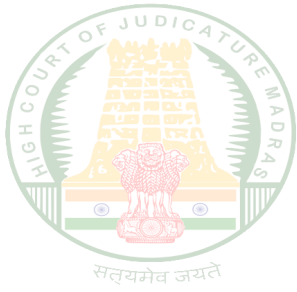
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Index :Yes
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Selection Grade Town Panchayat,
North Valliyoor,Tirunelveli District.
- 2.The Secretary,
Municipal Administration and Water Supply Department,
Chennai.
- 3.The Additional Superintendent of Police,
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Pre-Delivery Order made in
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