



WEB COPY



WA No. 485 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-02-2026

CORAM

THE HON'BLE MR JUSTICE R. SURESH KUMAR

AND

THE HON'BLE MR.JUSTICE SHAMIM AHMED

**WA No. 485 of 2026 AND
CMP NO. 4734 OF 2026**

1. State of Tamilnadu
Rep. By Its Secretary To Government, Health And
Family Welfare Department, Fort St. George,
Chennai-9.
2. The Public Health And Preventive Medicine
Rep. by its Director, Anna Salai,
Chennai-6.

..Appellants

Vs

1. E Subbarayan
S/O.Elumalai, No.252/25A, Thiruvannamalai Road,
Gingee, Villupuram District.
2. Tamil Nadu Public Service Commission
Rep. By Its Secretary , Anna Salai,
Chennai 600 002.

..Respondents

Prayer : Writ Appeal under Clause XV of the Letters Patent to set aside the order dated 28-03-2025 made in WP.No.23319 of 2011.

For Appellants :

Ms.M.Sneha, Special Counsel for Health and Family
Welfare Department

For Respondent(s):

Mr.N.C.Ramesh, Learned Senior Counsel Assisted By
Mr.T.Sivaprakasam - For R1
Mr.B.Vijay - For R2



WA No. 485 of 2026

JUDGMENT

(Judgment of the Court was delivered by R.Suresh Kumar J.)

WEB COPY

This intra court appeal has been directed against the order passed by the Writ Court dated 28.03.2025 made in W.P.No.23319 of 2011.

2. The first respondent was a doctor working under the appellant Department, against whom disciplinary proceedings has been initiated based on an alleged sexual harassment complaint given by a woman staff. There were three charges framed against the doctor and an enquiry was conducted. Before the enquiry officer, a list of ten witnesses have been filed by the prosecution side, however none of them had been examined. The enquiry was not properly conducted and the alleged sexual harassment complaint given by the woman staff has not been placed before the delinquent to deny the same and to disprove the same. Therefore, it seems that a shabby enquiry has been conducted by the enquiry officer and ultimately he stated that the charges have been proved, pursuant to which the disciplinary authority has inflicted the punishment of dismissal from service, against which the writ petition was filed.

3. The learned Writ Court disposed the writ petition in the year 2025. The said writ petition itself has been pending before this Court for 14 long years, where these aspects have been considered by the learned Judge and he has given the following findings.



WEB COPY

“ 15. The Enquiry Officer, while concluding as above, has held that the charge levelled against the petitioner as proved. As already noted above, though 10 witnesses were listed in Annexure IV to the charge memo, none of the witness were examined. From the charge or from the Enquiry Officer-s report, it is not known who made complaint against the petitioner of sexual harassment. When actually, such harassment took place is also not mentioned either in the charge or in the report of the Enquiry officer. In the absence of any particulars about the date on which such harassment took place, against whom such harassment took place etc., it is highly impossible for any delinquent to answer the charge. In the instance case, no such particulars are available either in the charge memo or in the report of the Enquiry Officer. None of the complaints alleged to have been made by the female staff are placed on record nor furnished to the petitioner. In the absence of the alleged complaints made against the petitioner of sexual harassment being brought on record and in the absence of examining any of the persons who suffered such harassment in the hands of the petitioner, it is un-understandable as to how the Enquiry Officer can hold the said charge as proved. The very purpose of conducting an enquiry as contemplated under Rule 17(b) of the Rule 1955 is with a view to establish the charges with admissible and sufficient evidence by duly affording an opportunity to the delinquent employee. If the findings on the charges are to be arrived at basing upon assumptions and presumptions, the very purpose of conducting an enquiry under Rule 17(b) of Rules 1955 would get frustrated. Thus, the findings that



WEB COPY

were recorded by the Enquiry Officer on the Charge No.III is also apparently basing on assumptions and presumptions.

16. No doubt, the Enquiry Officer in his report took note of the list of exhibits produced in proof of the article of charge numbering 7 and the list of exhibits produced by the petitioner in his defence numbering 26. But, the Enquiry Officer failed to refer to any of the documents presented on either side nor considered the said documents. Mere listing of the documents produced on either side in the report of the Enquiry Officer does not amount to consideration of the said documents. It is only in case the enquiry officer deal with each of the documents and record his findings either for accepting the same or for discarding the same, it cannot be said that the Enquiry Officer has taken into consideration the said material. From the perusal of the report of the Enquiry Officer, it is evident that the Enquiry Officer has not taken into consideration any of the documents that are placed on record by either side. Therefore, for this reason also, the entire report of the Enquiry Officer stand vitiated.

17. Further, it is also necessary to notice that the disciplinary proceedings, that were initiated against the petitioner by issuing charge memo dated 31.03.2004, were continued till the year 2011 i.e., for the 7 long years, causing great prejudice to the petitioner. Absolutely, there is no explanation that is coming forth for such ab~normal delay. In the light of the above analysis of the report of the Enquiry Officer, this Court is un~hesitant to conclude that all the conclusions arrived by the Enquiry Officer are perverse and consequently, the impugned orders passed by the respondent basing upon the said enquiry report also stand vitiated.”



4. The first respondent / writ petitioner in fact retired from service on attaining the age of superannuation in the year 2011 itself. For all these years, because of the pendency of this writ petition has already been removed from service, which was the order impugned before the Writ Court, he has not received his retiral and pensionary benefits so far.

5. We have heard Ms.Sneha, learned Special Counsel appearing for the appellant department and Mr.N.C.Ramesh, learned Senior Counsel for the respondent / writ petitioner.

6. After having gone through the impugned order, we are in complete agreement with the view expressed by the learned Judge. The reason being that, neither the substance of the complaint for alleged sexual harassment made against the delinquent has been supplied to the delinquent, nor any of the witnesses cited by the prosecution have been examined by the enquiry officer. Therefore, there could be no scope for the enquiry officer to come to such a conclusion that the charges framed against the delinquent have been proved and that is the reason why the learned Judge in Para 17 of the impugned order has in fact held that the enquiry officer's report is perverse.

7. We are in complete agreement with the said observation made by the learned Judge and thereby the conclusion reached by him to set aside the



WA No. 485 of 2026

punishment awarded against the writ petitioner and a consequential direction issued therein to settle the retiral benefits after giving notional reinstatement to the petitioner is to be accepted, as the same is fully justifiable and sustainable.

8. In that view of the matter, since there is absolutely no reason to interfere with the impugned order, we are inclined to dismiss the writ appeal, however without any order as to the costs. Consequently, connected miscellaneous petition is closed.

9. The order passed by the writ court shall be complied with by the appellant department within a period of eight weeks from the date of receipt of a copy of this order. As the respondent / writ petitioner though had retired in the year 2011 itself, has not yet received his retiral and pensionary benefits, it is highly difficult for him to make both ends meet for his survival. Therefore, the eight weeks' time given by this court shall be strictly complied with by the appellants. It is made clear that till the expiry of eight weeks time from the date of receipt of a copy of this order, no coercive steps shall be taken by the writ petitioner / first respondent including contempt proceedings against the appellant department.

(R.S.K.,J.) (S.S.A.,J.)
19-02-2026

Neutral Citation: Yes/No
KST



WA No. 485 of 2026

WEB COPY

To

1. The Secretary To Government,
Health And Family Welfare Department,
Fort St. George, Chennai-9.
2. The Director
Public Health And Preventive Medicine
Anna Salai, Chennai-6.
3. The Secretary
Tamil Nadu Public Service Commission
Anna Salai, Chennai 600 002.



WEB COPY



WA No. 485 of 2026

**R.SURESH KUMAR J.
AND
SHAMIM AHMED J.**

KST

**WA No. 485 of 2026
AND
CMP NO. 4734 OF 2026**

19-02-2026

Page 8 of 8