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W.P.No.26157 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2026

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THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.26157 of 2013

and

M.P.No.2 of 2013

Dr.N.Sekar
S/o.P.K.Nagarajan
Associate Professor of Plastic Surgery
Coimbatore Medical College
Coimbatore.

... Petitioner

vs.

1. The Director
Directorate of Medical Education
Kilpauk, Chennai-600 010.
2. The Dean
Coimbatore Medical College
Coimbatore.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the records in Ref.No.1286/E1(1)/2012 dated 31.07.2013, on the file of the 1st respondent and quash the same as illegal, incompetent and unconstitutional and further direct the respondents to sanction Pay Band IV to the petitioner and further redesignate him as professor of Plastic Surgery.

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For Petitioner : Ms.Ayesha Siddiqua
for Ms.V.Srimathi
For Respondents : Mr.E.Sundaram
Government Advocate

ORDER

The petitioner challenges the order dated 31.07.2013 bearing Reference No.1286/E1(1)/2012 and the Government Order dated 05.02.2013 in G.O.(D) No.113, Health and Family Welfare (K1) Department, passed by the first respondent. By the said orders, the petitioner was imposed with the punishment of stoppage of increment for a period of three years without cumulative effect. However, the same would not affect his pension.

2. The petitioner, while serving as an Assistant, was issued a charge memo dated 19.02.1993. The charge memo contained two charges. In Charge No.1, it was alleged that, while the petitioner was serving as Drawing and Disbursing Officer in the Government Leprosy Control Unit, Dharapuram, from 11.07.1990 to 09.08.1990, he had indulged in the preparation of false arrear claim bills. A scrutiny of the registers of the Leprosy Control Unit, Dharapuram, revealed that a large number of bills, such as pay and allowances bills, arrear pay bills, surrender leave salary



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bills, etc., had been returned on audit objections, and the Sub-Treasury Officer, Dharapuram, had recorded in red ink that, due to lack of supervision, one K.V. Srinivasan had fraudulently claimed money from the Government. The allegation in Charge No.2 need not be adverted to, as the petitioner has been exonerated from the said charge.

3. The petitioner submitted his reply to the show cause notice denying the charges. However, the explanation submitted by him was found to be unsatisfactory, necessitating the initiation of disciplinary proceedings. The Enquiry Officer, by report dated 19.11.2007, held that Charge No.1 stood proved and Charge No.2 stood not proved. Thereafter, the petitioner was issued a second show cause notice, to which he submitted a further explanation. The first respondent, after considering the enquiry report and the further explanation submitted by the petitioner, passed the impugned order.

4. The learned counsel for the petitioner submitted that, though the charge memo was issued as early as in the year 1993, the enquiry was concluded only on 19.11.2007 and the impugned order came to be passed in the year 2013. Therefore, on account of inordinate delay and laches, the

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entire disciplinary proceedings culminating in the impugned order stand vitiated. It was further submitted that, in respect of a similar charge, a criminal case had been registered, and the jurisdictional criminal court had acquitted the petitioner. It was also contended that, on account of the pendency of the departmental proceedings, the petitioner's promotional prospects were adversely affected and, therefore, he is entitled to consequential service benefits.

5. Per contra, the learned State Counsel submitted that the evidence available before the Enquiry Officer clearly established the allegations against the petitioner and that, in the absence of any perversity or arbitrariness in the findings of the Enquiry Officer, the impugned order passed by the first respondent does not warrant interference.

6. The arguments advanced by the learned counsel on either side and the materials placed on record have been duly considered.

7. The charge memo is dated 19.02.1993. The petitioner submitted his reply denying the charges on 17.05.1993. The Enquiry Officer submitted his report on 19.11.2007.



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8. Before the Enquiry Officer, the petitioner deposed as follows:

“N.Sekar, deposed before the Inquiry officer that he was deputed to the Government Leprosy Control Unit, Dharapuram for the period from 05.02.1991 to 04.03.1991. Thiru.K.V.Srinivasan, Assistant had submitted 12-13 bills of monthly salary bill for the month of February 1991 at a time. He signed the office copy, fair copy of the bill and relevant entries in the MTC 70 simultaneously. He got the Medical Officer’s signature for the previous months’ pay bill stating that it has a separate Head of Account and it was ‘Audited’. Subsequently, he mad relevant entries in the MTC 70 Register. During his tenure, he had not represented that bill to the Treasury. He had not verified whether the same bill had been presented to the Treasury during last month. Moreover Thiru.K.V.Srinivasan, Assistant himself had prepared and presented the bills to the Treasury.”

9. However, the deposition of the petitioner was not accepted, and the Enquiry Officer came to the conclusion that the petitioner, being the Drawing Officer, ought to have verified the service registers relating to the sanction of the claims of the said individuals before signing the bills prepared by the Assistant. According to the Enquiry Officer, the petitioner failed to discharge the said duty.



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10. The petitioner was issued a second show cause notice dated 23.01.2012. The petitioner submitted a further explanation stating that K.V. Srinivasan had forged the documents as well as the petitioner's signature. The Enquiry Officer, in his report, had also observed that K.V. Srinivasan had forged the documents and the signatures of the petitioner and other staff members.

11. Having recorded a finding that the documents and signatures were forged by Mr. K.V. Srinivasan, the petitioner, who was placed in charge as the Medical Officer, cannot be held responsible for the fraudulent claims made by the said individual. Moreover, the incident in question is stated to have occurred in the year 1990. The charge memo, however, came to be issued only in the year 1993. Thereafter, the disciplinary proceedings progressed at a tardy pace, with the enquiry being concluded only in the year 2012, and the impugned order of punishment ultimately being passed in the year 2013—nearly two decades after the date of the alleged occurrence. Such an inordinate and unexplained delay in initiating as well as concluding the disciplinary proceedings strikes at the very root of fairness in administrative action. It is well settled that protracted disciplinary



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proceedings cause serious prejudice to the delinquent employee, as the passage of time inevitably results in loss of evidence, fading of memory, and unavailability of relevant records and witnesses, thereby impairing the delinquent's ability to effectively defend himself.

12. The delay, in the present case, is not only excessive but also remains unjustified on the part of the respondents. Consequently, the proceedings stand vitiated for violation of the principles of natural justice and the doctrine of fairness. On this ground alone, the disciplinary proceedings culminating in the impugned order are liable to be set aside.

13. Further, it is to be noted that owing to the pendency of the departmental enquiry for an unduly long period, the petitioner was deprived of consideration for promotion and attendant service benefits, thereby causing continuing civil consequences. Such prejudice suffered by the petitioner furnishes an additional ground to invalidate the impugned disciplinary action.

14. In the light of the above, the captioned Writ Petition stands allowed, and the impugned orders dated 05.02.2013 and 31.07.2013 are



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hereby quashed. The respondents are directed to disburse all attendant and consequential benefits arising from this order. It is stated that the petitioner retired from service on attaining the age of superannuation in the year 2015.

15. Consequently, the connected miscellaneous petition is closed.

There shall be no order as to costs.

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Index : Yes / No

Neutral Citation : Yes / No

Speaking / Non-speaking

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To

1. The Director
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2. The Dean
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HEMANT CHANDANGOUDAR, J.,

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