



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.02.2026

WEB COPY

Coram

The Honourable **Mr.Justice Hemant Chandangoudar**

W.P.No.24580 of 2014

Dr.Vidya Albert Yen

..Petitioner

Vs.

- 1 The Government of Tamilnadu
Rep by Secretary to Government,
Health and Family Welfare (1-1) Department
Secretariat, Chennai – 600 009.

- 2 The Director of Medical Education
Chennai – 600 010.

...Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in G.O.(D) No.530 Health and Family Welfare (1-1) Department dated 22.6.2012 to quash the same and consequently to grant all consequential benefits to the petitioner

For Petitioner : Mr.M.Ravi

For Respondents : Mrs.M.Sneha Special Counsel

for Health & Family Welfare Department

for Mr.E.Sundaraman

Government Advocate



Order

The petitioner has challenged the order passed by the first respondent dated 22.06.2012 in G.O.(D) No.530 of the Health and Family Welfare (1-1) Department.

2. By the said impugned order, the petitioner has been imposed with the punishment of stoppage of increment for one year with cumulative effect, thereby affecting her pension.

3. The brief facts of the case, in short, are as follows:—

i) The petitioner, while serving as Assistant Professor of Periodontia at the Tamil Nadu Government Dental College and Hospital, Chennai, was issued a charge memo dated 03.02.2011 containing three charges, which are as under:—

“ Charge 1

That, Dr.Vidya Albert Yen, formerly Assistant Professor of Periodontia, Tamil Nadu Government Dental College and Hospital, Chennai was granted permission to study at La Trobe University, Australia and also granted extra ordinary leave for one year year from 18.02.2008 a.n. On completion of leave period, she had failed to report at this Directorate on 19.02.2009 f.n. fur further postings. She had reported for postings in this Directorate on 03.06.2009 and she had overstayed abroad from 19.02.2009 to 02.06.2009 and thereby, derelicted in her duties as a responsible Government Servant.



Charge No.2

That, on return from abroad, Dr.Vidya Albert Yen, formerly Assistant Professor of Periodontia, Tamil Nadu Government Dental College and Hospital, Chennai, had not joined duty at Dharmapuri Medical College, Dharmapuri, when she was posted vide this office reference No.41114/E3/09 dated 18.06.2009 and unauthorizedly stayed away from duty from 18.06.2009 to 10.11.2009 until the date of joining duty at Tamil Nadu Government Dental College and Hospital, vide this office modified posting order No.41114/E3/09 dated 04.11.2009.

Charge No.3 That by her above act, she has violated Rule 20 of Tamil Nadu Government Servant Conduct Rules, 1973.’’

ii) The petitioner submitted her reply/explanation to the said charge memo denying the charges. The Disciplinary Authority, not being satisfied with the reply/explanation given by the petitioner, initiated disciplinary proceedings against her, pursuant to which an Enquiry Officer was appointed. The petitioner appeared before the Enquiry Officer and submitted her defence statement. The Enquiry Officer, after considering the materials on record and the explanation/defence statement of the petitioner, concluded the enquiry and submitted a report holding that the charges levelled against the petitioner were proved.



iii) Subsequently, the petitioner was issued a second show cause notice, to which she submitted her further reply/explanation denying the findings of the Enquiry Officer. The first respondent, after considering the reply/explanation submitted by the petitioner as well as the Enquiry Officer's report, passed the impugned order dated 22.06.2012. Challenging the said order dated 22.06.2012, the present Writ Petition has been filed, as already stated supra.

4. The learned counsel for the petitioner assailed the said order dated 22.06.2012 passed against the petitioner, firstly contending that the petitioner, vide proceedings dated 18.02.2008, was accorded permission to go abroad for studies for a period of one year, commencing from 14.02.2008 and expiring on 13.02.2009; that the petitioner, even before the expiry of one year, returned to India on 28.11.2008 and immediately upon her return submitted a representation dated 29.01.2009 requesting the respondents to permit her to join duty. However, such representation was not considered and was rejected without assigning any reason, and the petitioner was issued with a posting order only on 18.06.2009 requiring her to join duty forthwith, which was subsequently modified on 04.11.2009. In such circumstances, the charges levelled against the petitioner are without any substantial evidence.



4.1 Secondly, it is contended by the learned counsel for the petitioner that, despite receipt of the posting orders, she was unable to join at Dharmapuri due to her health condition and family problems, as she was suffering from vertigo and cervical spondylosis, and her daughter was also suffering from depression. Hence, she made a representation dated 03.06.2009 requesting the respondents to post her at any place in Chennai instead of Dharmapuri. Despite such a specific request made by the petitioner, the same was not considered by the respondents. Therefore, the charges levelled against the petitioner that she was guilty of overstaying abroad and remained unauthorisedly absent from duty are unsustainable.

4.2 Thirdly and finally, the learned counsel for the petitioner contended that, in terms of Rule 17(b) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules, a charge memo or show cause notice for major penalties must include specific details to enable a proper defence, including the statement of charges, allegations, list of documents, and list of witnesses likely to be examined. In the case on hand, though enquiry proceedings were initiated against the petitioner under Rule 17(b) of the said Rules, the show cause notice issued to her did not contain any such list of documents or list of witnesses to be examined. In such circumstances, the enquiry proceedings, which culminated in the passing of the impugned order, stand vitiated



for non-compliance with Rule 17(b) of the said Rules and also for violation of the principles of natural justice. Hence, he prays for quashment of the impugned order.

WEB COPY

4.3 The learned counsel for the petitioner also placed reliance on the decisions rendered by the Hon'ble Division Bench of this Court in support of his case, which are as follows:—

**i) S. Balasubramanian Vs. The District Collector,
Salem District, Salem and two others in W.P. No.2924
of 2019 dated 12.09.2019;**

and

**ii) K. Jayaprakash Vs. The Government of
Tamil Nadu, represented by the Principal Secretary to
Government in W.P. No.1674 of 2017 dated
03.01.2023.**

5. In reply, the learned State Counsel appearing for the respondents would submit that the petitioner had overstayed in Australia without obtaining prior permission and had submitted her representation only on 03.06.2009 seeking permission to report for duty. Despite a posting order having been issued on 18.06.2009 requiring her to join duty forthwith, the petitioner failed to do so till



10.11.2009. Therefore, the Enquiry Officer, after considering all these aspects in their proper perspective, rightly held that the charges were proved. In the absence of any arbitrariness, illegality, or perversity in the findings of the Enquiry Officer, the impugned order passed by the Disciplinary Authority/first respondent does not warrant any interference.

6. The arguments advanced by the learned counsel on either side were duly considered, and this Court also perused the materials placed on record, particularly the original files produced by the learned State Counsel for the respondents.

7. The petitioner, while serving as Assistant Professor of Periodontia at the Tamil Nadu Government Dental College and Hospital, Chennai, was issued an order dated 18.02.2008 permitting her to pursue studies abroad, viz., at La Trobe University, Australia, for a period of one year from the date of sanction of leave, subject to certain terms and conditions. The said period of one year expired on 13.02.2009. The petitioner claims to have returned to India on 28.11.2008 and to have submitted a representation dated 29.01.2009 to the Competent Authority seeking permission to join duty. Subsequently, by another representation dated



03.06.2009, she requested that she be posted at any place in Chennai instead of Dharmapuri.

WEB COPY

7.1 It is the specific contention of the learned counsel for the petitioner that, upon her return to India, she had submitted two representations one dated 29.01.2009 requesting permission to join duty and another dated 03.06.2009 requesting a suitable posting at any place in Chennai instead of Dharmapuri, citing her health condition and family predicament. However, according to the petitioner, these representations were not considered, and photocopies of the same were produced before the Enquiry Officer. Therefore, in order to ascertain the veracity of the said submissions, this Court, vide Docket Order dated 19.01.2016, directed the learned State Counsel for the respondents to produce the original files pertaining to the enquiry as well as the joining report of the petitioner. In compliance with the said direction, the learned State Counsel produced the original files. On perusal of the same, it is seen that the petitioner's representation dated 29.01.2009 does not find place anywhere in the records. Therefore, it remains unclear whether the representation dated 29.01.2009 was in fact submitted or was created subsequently for the purpose of the enquiry.



8. Be that as it may, considering the fact that the petitioner had returned to India on 28.11.2008, even before the expiry of the one year period sanctioned for her studies abroad, and had thereafter submitted representations dated 29.01.2009 seeking permission to report for duty and another representations dated 03.06.2009 and 01.06.2009 requesting a posting at Chennai instead of Dharmapuri, and further considering that she was issued a posting order on 18.06.2009 requiring her to report for duty forthwith which was subsequently modified by order dated 04.11.2009 pursuant to which the petitioner joined duty on 11.11.2009, this Court is of the view that a doubt arises as to whether the absence was wilful or not, and the benefit of doubt has to be given to the Petitioner. However, the petitioner joined duty only on 11.11.2009 more than ten months from returning to India and the delay is solely attributable to the Petitioner and despite the order dated 18.06.2009 calling upon her to report to duty, the Petitioner submitted as representation only on 01.06.2009 and 03.06.2009 seeking change of place, and to this extent the charge remains proved.

9. Further, this Court would like to point out that the order passed by the Disciplinary Authority is not a speaking order, as no proper reasons have been assigned for imposing the punishment of stoppage of increment for one year with



cumulative effect. That apart, there has been non-compliance with Rule 17(b) of the said Rules, inasmuch as the show cause notice did not contain any list of documents or witnesses proposed to be examined, as rightly pointed out by the learned counsel for the petitioner.

10. Therefore, this Court is inclined to modify the impugned order passed by the first respondent to the extent that the punishment of stoppage of increment for a period of one year with cumulative effect affecting her pension is modified to that of stoppage of increment for a period of one year without cumulative effect and without affecting her pension.

11. In fine, the Writ Petition is partly allowed. No costs.

17.02.2026

sd

Index : yes/no

Neutral Citation : yes/no



WEB COPY

- To
- 1 The Government of Tamilnadu
Rep by Secretary to Government,
Health and Family Welfare (1-1) Department
Secretariat, Chennai – 600 009.
 - 2 The Director of Medical Education
Chennai – 600 010.



WEB COPY



Hemant Chandangoudar,J.

sd

W.P.No.24580 of 2014

17.02.2026