



ABSTRACT

Establishment – Tamil Nadu Public Health Subordinate Service – Thiru P Pandian, Block Health Supervisor, Primary Health Centre, Mangalore, Cuddalore – Disciplinary action taken under 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules convicted – Removed from service under rule 17(c) (i) (*) – Criminal Revision filed – Acquitted – Permitted to retire from service w.e.f. date of superannuation i.e. 31.10.2012 – Pending disciplinary action continued under rule 9 of Tamil Nadu Pension Rules, 1978 – Punishment under Tamil Nadu Pension Rules – Suspension period regulated – Orders - Issued.

HEALTH AND FAMILY WELFARE (L1) DEPARTMENT

G.O.(Ms) No.563

Dated 22.12.2020

Thiruvalluvar Aandu: 205*

Saarvar, Margazh - 7

Read:

1. From the Director of Public Health and Preventive Medicine letter R.No.105307/MP2/S1/2018, dated 31.05.2019 and 02.08.2019.
2. Government letter No 20262/L1/2019-4, dated 04.03.2020.
3. From Thiru P Pandian, Block Health Supervisor (Retired), Cuddalore District, dated 20.05.2020.
4. From the Director of Public Health and Preventive Medicine letter R.No.105307/MP2/S1/2018, dated 31.07.2020

ORDER:

In the letter first read above the Director of Public Health and Preventive Medicine has stated that a criminal case was filed against Thiru. P Pandian, Block Health Supervisor for having misbehaved with Tmt.R.Sumathi, Community Health Nurse on 24.03.2007. The disciplinary action was initiated under Rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules, for the above said regularities. He was placed under suspension on 16.5.2007 which was served to the individual on 22.5.2007 and the same was revoked on 16.7.2007 and he joined duty on 25.7.2007. In the Judgement dated 28.4.2009, the Judicial Magistrate, Virudhachalam in the criminal case filed against the individual, had sentenced him to undergo 2 years imprisonment with fine of Rs.10,000/- Thiru. P.Pandian filed the appeal against the above order. The above punishment was confirmed by the Additional District and Sessions Court, Virudhachalam and dismissed the appeal in the Judgement dated 17.02.2010 in Criminal Appeal No.22/2009. Based on the above judgement in Criminal Appeal he was placed under deemed suspension with effect from 17.02.2010 and disciplinary proceedings against the individual under rule 17 (c)(i)(*) of Tamil Nadu Civil Services (Discipline and Appeal) Rules with the punishment of removal from service was imposed on him vide proceedings dated 14.9.2010, which was served on 23.09.2010

(P.T.O.)

2. The individual filed the Criminal Revision petition in Cr.R.C.No.206 of 2010 and the High Court of Madras in the Judgment dated 29.07.2016 has set aside the judgement passed in Criminal appeal which confirmed the judgement of the learned Judicial Magistrate-I Viruchachalam passed in CC.No.1130/2007 and acquitted him from the criminal case. Based on the above judgement the suspension order issued by the Deputy Director of Health Services, Cuddalore has been revoked vide proceedings dated 31.10.2012 and he was permitted to retire from service with effect from the date of his superannuation i.e. on 31.10.2012 with disciplinary proceedings pending against him to be continued under rule 9 of the Tamil Nadu Pension Rules, 1978 and the punishment of pension cut of Rs 200/- per month was imposed for a period of 2 years on Thiru.P.Pandian, Block Health Supervisor (Retired). His suspension period was already regularised as Extra-ordinary Leave without Pay and Allowance under FR 54B-I (5) (from 22.5.2007 to 15.7.2007). The period from date of revocation upto his date of joining (16.7.2007 to 24.7.2007) has been treated as compulsory work.

3. The Director of Public Health and Preventive Medicine has stated that the out of employment period from 03.03.2010 (i.e. Date of receipt of suspension order by the individual) to 31.10.2012 (i.e. Date of revocation of suspension order and permission to retire from service with effect from the date of his superannuation on 31.10.2012) has to be regulated. Hence he has requested the Government to regulate the out of employment period from 03.03.2010 to 31.10.2012 (974 days) as 'Non duty' period in respect of Thiru.P.Pandian, Block Health Supervisor (Retired).

4. The disciplinary action initiated against the individual has ended with the punishment of pension cut. Hence, the suspension preceding his removal from service i.e. from 17.2.2010 to 22.9.2010 and the period of removal from service from (i.e. 23.9.2010 to 31.10.2012) could be regulated as Extra-ordinary Leave without Pay and Allowance only as per 54-B (4) &(5). In view of above in the letter second read above a show cause notice was issued to Thiru.P.Pandian, Block Health Supervisor (Retired) through Director of Public Health and Preventive Medicine as per rules in vogue for regulating the period of deemed suspension preceding his removal from service i.e. from 17.2.2010 to 22.9.2010 and the period of removal from service i.e. from 23.9.2010 to 31.10.2012 as leave of any kind due and admissible to him as per Rule FR 54 B (4) (5).

5. In the defence statement third read above Thiru.P.Pandian has prayed to the Government for the regularisation of suspension and covering the period of removal from service as once spent on duty than that of proposed regularisation as leave of any kind due and thus render justice.

6. The Government examined the case thoroughly and found that a criminal case was filed against Thiru.P.Pandian, formerly Block Health Supervisor by the Police authorities of Siruakkam Police Station (FIR No.33/07, dated 26.03.2007). A simultaneous departmental disciplinary case (R.No.42192/DA/07/S2, dated 16.07.2007) was initiated against him for the same allegation dealt in the criminal case under Rule 17(b) of Tamil Nadu Civil Service (Discipline and Appeal) Rules for violation of Government Servants Conduct Rules and inquiry report received. In the meantime the individual was convicted by the Judicial Magistrate No.1, Viruchachalam in the said Criminal Case CC.No.113/2007. Subsequently the departmental disciplinary case (R.No.42192/DA/07/S2, dated 16.07.2007) initiated against him was kept in abeyance and action (R.No.42192/DA/07/S2, dated 16.10.2010) was initiated under Rule 17(c)(1) of Tamil Nadu Civil Service (Discipline and Appeal) Rules based on his conviction in criminal case and he was imposed with the punishment of 'Removal from service' on 14.09.2010.

In the criminal revision (R.C.No.206/2010) filed by the individual, the Hon'ble High Court of Madras have acquitted him from the criminal case. Consequently, the punishment of 'Removal from service' imposed in the disciplinary case initiated under Rule 17(c)(i)(1) of Tamil Nadu Civil Service (Discipline and Appeal) Rules has to be cancelled. As per the instructions issued in the Letter (Ms) No.91, Personnel and Administrative Reforms (N) Department, dated 19.06.2012, departmental disciplinary action may be initiated (or) if already initiated may be continued against the acquitted public servants from criminal case. In the circumstances, after examination, his suspension and removal from service orders were revoked and he was allowed to retire on 31.10.2012 with a condition of continuing the departmental disciplinary case (R.No.42192/DA/07/S2, dated 16.07.2007) initiated against him for the same allegation dealt in the criminal case under Rule 9 of Tamil Nadu Pension Rules, for violation of Government Servants Conducts Rules. In this disciplinary case after following the due procedures he was imposed with a punishment of "Pension cut of Rs.200/- per month for two years" for the proven charge. Hence, as per the prevailing instructions issued in Letter (Ms) No.91, Personnel and Administrative Reforms (N) Department, dated 19.06.2012 the criminal proceedings and disciplinary proceedings operate in different fields, the disciplinary case (R.No.42192/DA/07/S2, dated 16.07.2007) pursued with the criminal case will not get cancelled on his acquittal from the criminal case as per the contention of the individual. The High Court of Madras in its order dated 29.01.2015 in Cri.R.C.No.206 of 2010 has on the sole ground that though PW-1 (i.e.) the victim informed of having suffered injury at the hands of the petitioner / accused, it is the evidence of PW-8 (i.e.) Doctor that the injuries found on her body were old injuries / contusions and no final report informing commission of offences under section 323 IPC has been filed nor has any charge therefor been framed, has acquitted the individual Thiru.P.Pandian and ordered for refund of fine if paid.

7. The Government after careful examination do and hereby decided to regulate the period of deemed suspension preceding his removal from service i.e. from 17.2.2010 to 22.9.2010 and the period of removal from service i.e. from 23.09.2010 to 31.10.2012 in respect of Thiru.P.Pandian, Block Health Supervisor (Retired) as Extra-ordinary Leave without Pay and Allowances as per FR 54-B (4) (5).

(BY ORDER OF THE GOVERNOR);

J.RADHAKRISHNAN,
PRINCIPAL SECRETARY TO GOVERNMENT.

To:

The Director of Public Health and Preventive Medicine, Chennai-6.

Thiru.P.Pandian, formerly Block Health Supervisor.

Through Director of Public Health and Preventive Medicine, Chennai-6.

Copy to

The Personnel and Administrative Reforms (FR/III)/L3; Department, Chennai-9.

The Law (C) Department, Chennai-9.

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SECTION OFFICER.

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