

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

THURSDAY, THE 21ST DAY OF MAY 2015/31ST VAISAKHA, 1937

WP(C).No. 21341 of 2009 (K)

PETITIONER(S):

**DR.PRATHIBHA.P., PULARI, KADATHOOR,
KULASEKHARAPURAM P.O., KARUNAGAPPALLY, KOLLAM.**

BY ADV. SRI.K.SUBASH CHANDRA BOSE

RESPONDENT(S):

- 1. SECRETARY TO GOVERNMENT OF KERALA,
HEALTH & FAMILY WELFARE DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM.**
- 2. THE DIRECTOR OF STATE MISSION,
AROGYAKERALAM, THIRUVANANTHAPURAM.**
- 3. CHIEF EXECUTIVE OFFICER,
DISTRICT HEALTH AND FAMILY WELFARE SOCIETY
AROGYA KERALAM (NRHM), KANNOOR.**

**R2-R3 BY ADV. SRI.M.AJAY,SC,NATIONAL RURAL HEALTH MIS
R1 BY SRI SOJAN JAMES, GOVERNMENT PLEADER**

**HIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21-05-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:

- P1 : COPY OF G.O.(MS) NO.533/2008/H&FWD DATED 07.10.2008
- P2 : COPY OF THE POSTING ORDER OF PETITIONER'S PREDECESSOR DR.SEMEENA K. ISSUED BY 3RD RESPONDENT
- P3 : COPY OF THE POSTING ORDER OF PETITIONER DATED 25.03.2009 ISSUED BY 3RD RESPONDENT
- P4 : COPY OF THE JUDGMENT IN WPC NO.9839/2009 DATED 03.04.2009
- P5 : COPY OF THE REPRESENTATION DATED 11.04.2009
- P6 : COPY OF HTE ORDER DATED 03.06.2009 ISSUED BY THE 1ST RESPONDENT
- P7 : COPY OF THE REPRESENTATION DATED 06.07.2009 TO 1ST RESPONDENT
- P8 : COPY OF THE REPRESENTATION DATED 06.07.2009 TO 2ND RESPONDENT
- P9 : COPY OF THE REPRESENTATIONS DATED 06.07.2009 TO 3RD RESPONDENT
- P10 : COPY OF RELEVANT PAGES IN THE 4TH BOOKS PUBLISHED BY THE KUMUMBASREE UNDER THE 11TH 5 YEAR PLAN PUBLISHED BY THE LOCAL ADMINISTRATION DEPARTMENT OF THE KERALA GOVERNMENT
- P11 : COPY OF THE LETTER DATED 05.10.2009 ISSUED BY THE DISTRICT MEDICAL KANNOOR

RESPONDENTS' EXHIBITS:

- R2(A) : COPY OF THE LETTER NO.AK(NRHM)/KNR/222/2009 DATED 13.07.2009 SENT BY THE THIRD RESPONDENT TO THE PETITIONER
- R2(B) : COPY OF THE COMMUNICATION NRHM/ADMN/159/2008/SPMSU DATED 29.09.2008 SENT BY THE SECOND RESPONDENT TO ALL THE CHIEF EXECUTIVE OFFICERS OF NRHM
- R2(C) : COPY OF THE ORDER NO.AK(NRHM)/KNR/481/07 DATED 10.10.2008
- R2(D) : COPY OF THE ORDER NO.AK(NRHM)/KNR/481/07 DATED 25.11.2008

//TRUE COPY//

P.A. TO JUDGE

JV

ANIL K. NARENDRA, J.

W.P.(C) No.21341 of 2009

Dated this the 21st day of May, 2015

JUDGMENT

By Ext.P3 proceedings of the 3rd respondent, the petitioner was posted in the Primary Health Centre, Thillankeri, on a monthly remuneration of Rs.15,000/- for one year Compulsory Government Service. As per Ext.P3, the petitioner was not granted any rural/difficult area allowance. According to the petitioner, going by Clause (c) to Paragraph 4 of Ext.P1 Government Order, the candidates posted for Compulsory Government Service are entitled for a remuneration of Rs.15,000/- per month plus rural/difficult rural area allowance as per the norms fixed by the Government/NRHM from time to time. Relying on Ext.P2 proceedings of the 3rd respondent, the petitioner would contend that one Dr. Semeena K., was granted a sum of Rs.20,000/- as monthly remuneration while she was posted in the very same Primary Health Centre. Therefore, the petitioner has filed this writ petition seeking a writ of mandamus commanding the respondents to grant rural/difficult area

allowance in the same rate at which her predecessor was given in Ext.P2.

2. A counter affidavit has been filed on behalf of respondents 2 and 3 in which they have contended, inter alia, that in the meeting of the State Health and Family Welfare Society, it was decided to grant Rs.3,000/- as rural area allowance and Rs.5,000/- as difficult rural area allowance to doctors working on contract basis under NHRM as well as for one year Compulsory Rural Service. The district wise list of health institutions in rural and difficult rural area in which the doctors are entitled for additional allowance of Rs.3,000/- and Rs.5,000/- respectively are also approved in the aforesaid meeting. A copy of the district wise list was forwarded to the Chief Executive Officers of NRHM in all districts vide Ext.R2(b) covering letter dated 29.09.2008. As can be seen from Ext.R2(b), the Public Health Centre at Thillankeri in which the petitioner had worked is not included either in the Public Health Centres in rural areas or in difficult rural areas. Therefore, the 2nd and 3rd respondent would contend that, in the light of Ext.R2 (b), the petitioner is not entitled for the reliefs prayed for in the writ petition.

3. I have heard the arguments of the learned counsel for the petitioner, the learned senior Government Pleader appearing for the 1st respondent and also the learned Standing Counsel for respondents 2 and 4.

4. The entitlement of a doctor undergoing Compulsory Rural Service for additional allowance towards rural/difficult rural area is governed by the provisions contained in Ext.P1 Government Order. Going by Clause (c) to Paragraph 4 of Ext.P1 Government Order, the candidates posted for Compulsory Government Service will be paid a remuneration of Rs.15,000/- per month plus rural/difficult rural area allowance as per the norms fixed by the Government/NRHM from time to time. It is relying on Ext.P2, the petitioner is contended that she entitled for additional allowance of Rs.5,000/- for difficult rural area as her predecessor was granted a total remuneration of Rs.20,000/- per month by the aforesaid order. It is to be noticed that going by the provisions contained in Ext.P1, which I have already referred to, a candidate is entitled to claim rural/difficult rural area allowance only in terms of the norms fixed by the Government/NRHM from time to time. The aforesaid norms is produced alongwith the counter affidavit filed by the 2nd and 3rd

respondents as Ext.R2(b). A reading of Ext.R2(b) would show that the norms for grant of additional allowance towards rural/difficult rural area was fixed in the meeting of the NRHM Directorate and the same was made effective from 03.03.2008. Going by the aforesaid norms, candidates working on contract basis in the Public Health Centres included in the district wise list of health institutions in rural and difficult rural areas will be entitled for an additional allowance of Rs.3,000/- in rural areas and Rs.5,000/- in difficult rural areas. The list of institutions in Kannur District which are identified as rural areas/difficult rural areas are also included in the aforesaid list. The Public Health Centre, Thillankeri, in which the petitioner had worked is not included either under the list of Public Health Centres in rural areas or in difficult rural areas in Kanur District. Therefore, going by Ext.R2(b), the petitioner is not legally entitled to claim any additional allowance as contended in the writ petition. Therefore, the claim made by the petitioner for additional allowance is legally unsustainable.

5. It is relying on Ext.P2 order, the petitioner is contended that she is also entitled for the additional allowance. A reading of Ext.P2 would show that in the case of one Dr.Semeena K., a

monthly remuneration of Rs.20,000/- was granted when she was posted in the Public Health Centre, Thillankeri, on the ground that it is an undeserved area. When Ext.P1 Government Order specifically provides that the entitlement of a candidate for payment of additional allowance will be in terms of the norms prescribed by the Government/NRHM, the entitlement of the petitioner for such allowance has to be considered strictly in terms of the norms contained in Ext.R2(b). Therefore, merely for the reason that in Ext.P2 another candidate posted in the very same Public Health Centre has been granted additional allowance, the petitioner cannot contend that she should be granted the said allowance contrary to the norms in Ext.R2(b).

In the result, I find absolutely no merit in the writ petition and the same is dismissed. No order to cost.

Sd/-
ANIL K. NARENDRA,
JUDGE