

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2015

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.27681 of 2015 and
M.P.No.1 of 2015

K.Senthil Kumar

...Petitioner

-Vs-

- 1 The Secretary
Co-operation Food and Consumer Protection
Department Secretariat Chennai-600 009.
- 2 The Commissioner
Civil Supplies and Consumer Protection
Department Ezhilagam Buildings Chepauk
Chennai-600 005.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent pursuant to the communication of the 2nd respondent in his communication/letter Na.Ka.No. Nu.Vi.2/2538/2014 dated 12.03.2014 and quash the same and direct the respondents to pay/settle revised retainer fee and allowances including office rent on par with the Government Pleader High Court of Madras from 10.01.2007 as per G.O.Ms.No.36 Public (Law Officers) Dept. dated 10.01.2007 and from 01.11.2010 as per G.O.Ms.No.1033 Public (Law Officers) Dept. dated 01.11.2010 to the petitioner.

For Petitioner: Mr.M.Venkatachalapathy Senior counsel

for Mr.S.Subramania Raja

For Respondents: Mr. L.P.ShanmugaSundaram Spl.G.P
(Co-operative)

O R D E R

By consent, this Writ Petition is taken up for final disposal.

2. The petitioner would state that on 09.04.2003, he was appointed as a standing counsel representing interest of the Government for State Consumer Redressal at Chennai and as per

G.O.Ms.No.204, Food and Consumer Protection (H2) Department dated 08.06.2003, retainer fee was fixed as Rs.6000/- per month and it was on par with retainer fee paid to the Government Pleader/Government Law Officer attached to High Court. Subsequently, the retainer fee payable to the Government Pleader was revised as Rs.9000/- per month as per G.O.Ms.No.36, Public [Law Officers] Dept, dated 10.1.2007 and it was revised as per G.O.1033 dated 01.11.2010.

3. The claim of the petitioner is that he functioned as a standing counsel representing Government cases before the State Consumer Redressal Commission till 25.3.2012 and since he has similar duties and responsibilities as that of Government Law Officer, High Court, he is entitled to the benefit of G.O.Ms.No.36, Public [Law Officers] Dept, dated 10.1.2007 as well as G.O.Ms.No.1033, Public [Law Officers] Dept, dated 01.11.2010 and in this regard, he had submitted a representation dated 23.01.2014 to the first respondent followed by another representation on the very same date.

4. The said representation was not considered by the first respondent and vide letter dated 12.3.2014, the first respondent has informed the petitioner that G.O.Ms.No.167 dated 08.10.2013 which came into being subsequently, is only prospective in operation and the benefit of the said Government Order, cannot be extended to the petitioner. Challenging the legality of the said order, petitioner came forward with this writ petition.

5. Mr.M.Venkatachalapathy, the learned Senior counsel appearing for the petitioner would invite the attention of this Court to the typed set of documents and would submit that the first respondent proceeded on the footing as if the petitioner is seeking the benefit of G.O.Ms.No.167 dated 08.10.2013 and admittedly, he did not seek the benefit of the said Government Order and his tenure came to an end during the year 2012 itself and he seek the benefit only to G.O.Ms.No.36, Public [Law Officers] Dept, dated 10.1.2007 as well as G.O.Ms.No.1033, Public [Law Officers] Dept, dated 01.11.2010 and hence, prayed for setting aside the impugned letter and pass appropriate orders.

6. This Court heard the submissions of Mr.L.P.Shanmugsundaram, Special Government Pleader, who accepts notice on behalf of respondents and would submit that in terms of the second representation dated 23.01.2014, the petitioner sought the benefit of G.O.Ms.No.167 dated 08.10.2013 and therefore, the first respondent has expressed his view that such request cannot be acceded to and rejected the request made by the petitioner.

7. This Court has carefully considered the rival submissions and also materials placed before it.

8. On a perusal of the representation dated 23.1.2014 submitted

by the petitioner to the respondent would disclose that he is seeking confirmment of benefit in terms of G.O.Ms.No.36, Public [Law Officers] Dept, dated 10.1.2007 as well as G.O.Ms.No.1033, Public [Law Officers] Dept, dated 01.11.2010.

9. In the light of the said submissions that the petitioner did not seek the benefit of G.O.Ms.No.167 dated 08.10.2013 for the reason that his term of tenure came to an end on 25.3.2012, this Court is of the view that the impugned letter warrants interference. Hence, the matter is remanded to the first respondent to consider the claim of the petitioner in terms of G.O.Ms.No.36, Public [Law Officers] Dept, dated 10.1.2007 as well as G.O.Ms.No.1033, Public [Law Officers] Dept, dated 01.11.2010.

10. In the result, the writ petition is partly allowed and the order dated 12.3.2014 passed by the second respondent is set aside and the petitioner is at liberty to submit one more representation by enclosing a copy of the above cited Government Orders, copy of this order as well as the copies of earlier representations within a period of two weeks from the date of receipt of a copy of this order to the second respondent, who on receipt of the same is directed to consider the same on merits and in accordance with law and pass orders within a period of eight weeks, thereafter and communicate decision taken to the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

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To

1 The Secretary
Co-operation Food and Consumer Protection
Department Secretariat Chennai-600 009.

2 The Commissioner
Civil Supplies and Consumer Protection
Department Ezhilagam Buildings Chepauk
Chennai-600 005.

+1 cc to Mr.S.Subramania Raja, Advocate, sr.47793
+1 cc to The Government Pleader, sr.48092.

W.P.No.27681 of 2015

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