

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.35615 of 2016

Dr.G.S.M.P.Khadri

... Petitioner

Vs.

- 1 The Special Commissioner and
Secretary to the Govt. of Tamil Nadu
Health and Family Welfare Dept.
Fort St. George
Chennai-600 009.
- 2 The Director of Medical Education
Poonamallee High Road
Chennai- 600 010.
- 3 The Dean
Kilpauk Medical College
Chennai-600 010

.... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondents 1 to 3 to consider the representation of the petitioner dated 22.08.2016 and to direct the respondents 1 to 3 to sanction the petitioner's notional promotional benefits and consequential monetary benefits.

For Petitioner : Mr.V.Raghupathi

For Respondents :Mr.K.Dhananjayan,
Spl. Govt. Pleader.

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has come up with the present writ petition for a mandamus, directing the respondents 1 to 3 to

consider his representation dated 22.08.2016 and to direct the respondents 1 to 3 to sanction notional promotional benefits and consequential monetary benefits.

3. It is the case of the petitioner that he joined service in the year 1981 and retired on 31.10.2006 without any legitimate monetary benefits and pension for the simple reason that he has not passed the second language test in Tamil. Hence, he sent a representation dated 23.6.2006 to the first respondent requesting him to consider his case sympathetically and issue early order for granting exemption from passing of second class language test in Tamil and for payment of both service and pensionary benefits including increments and arrears with monetary benefits from the date of joining the service. Though the respondents considered his request, exemption was granted only from the date of retirement and not from the date of appointment. Challenging the same, the petitioner filed a writ petition before this Court in W.P.No.25153 of 2010 and in the said writ petition, this Court passed the following order:-

"... the service of the petitioner is ordered to be regularized and the respondents are directed to calculate the retiral and pensionary benefits, etc., which are due to the petitioner and pay to the petitioner within a period of six months of the date of receipt of certified copy of this order."

Aggrieved over the same, the respondent filed writ appeal in W.A.No.1809 of 2012 and the Division Bench of this Court dismissed the said appeal on 29.8.2012. Even thereafter, after more than 14 months from the date of dismissal of the said writ appeal, the respondents have not passed any order. Hence, the petitioner filed a contempt petition before this Court in Cont.P.No.2062 of 2013. Only after filing the said contempt petition, the first respondent issued an order on G.O(D) No.385, Health and Family Welfare Department dated 23.4.2014 and modified the earlier order and exempted him from passing the second class language in Tamil from the date of his initial appointment. After getting the Government Order, the respondents sanctioned his pension benefits, but, till date, they have not sanctioned his notional promotional benefits. In this regard, he sent a representation dated 22.8.2016 to the respondents. But, till date, there is no response on the said representation. Hence, left with no other alternative, the petitioner has come up with the present writ petition for the relief set out earlier.

4. I have heard the learned counsel appearing for the petitioner and the learned Special Government Pleader, who has taken notice on behalf of the respondents.

5. Considering the facts and circumstances of the case and considering the submissions made on either side, this Court directs the respondents to consider the representation of the petitioner dated 22.8.2016 seeking notional promotional benefits and consequential monetary benefits and pass appropriate orders, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion with regard to the claim projected by the petitioner and it is for the respondents to consider the claim of the petitioner strictly on merits and in accordance with law. The writ petition is disposed of accordingly. No costs.

-sd-

Assistant Registrar

//True copy//

Sub Assistant Registrar

sbi

To

1 The Special Commissioner and
Secretary to the Govt. of Tamil Nadu
Health and Family Welfare Dept.
Fort St. George
Chennai-600 009.

2 The Director of Medical Education
Poonamallee High Road
Chennai- 600 010.

3 The Dean
Kilpauk Medical College
Chennai-600 010

C.C. to MR.V.RAGHUPATHI Advocate SR.NO..58720

C.C. to The Government Pleader SR.NO.59007

W.P.No.35615 of 2016

KS (CO)
VS 12.11.2016