

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2016

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.4001 of 2016 &
W.M.P.No.3325 of 2016

R.Selvaraju

.. Petitioner

Vs.

- 1.The Senior Civil Surgeon
Government Primary Health Centre,
Medavakkam, Chennai-100.
- 2.The Deputy Director of Health Services
No.23, Jones Salai,
Saidapet, Chennai-15.
- 3.The Director
Public Health and Preventive Medicine
DMS Compound, Anna Salai,
Teynampet, Chennai-6.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Declaration to declare that the recovery of the arrears of salary of Rs.1,54,668/- quantified and paid to the petitioner for the period 11.06.2001 to 31.11.2002 as per the order of the first respondent dated 22.12.2002 vide N.K.No.415/2002, pursuant to the modified pay fixation by order of the office of the 3rd respondent vide order R.No.3741/S3/05 dated 11.04.2006 as arbitrary and illegal and consequently direct the respondents to reimburse to the petitioner the sum of Rs.1,54,668/- arbitrarily recovered from the petitioner as excess arrears of salary paid in the light of the decisions of this Court in Palaniammal V. The Deputy Director of Health Services, Chennai in WP.No.17801 of 2007 dated 10.09.2008 and the decision of the Hon'ble Supreme Court reported in 2015 (4) SCC 334 in the case of State of Punjab and Ors Vs. Rafiq Masih (White Washer) and others.

For Petitioner : Ms.C.Uma.
For respondents : Mr.A.Kumar, Spl.GP.

O R D E R

With the consent of both sides, the Writ Petition is taken up for final disposal.

2.Heard both sides.

3.The case of the petitioner is that he joined service on 11.06.1971 as Basic Health Worker in the Directorate of Public Health (Malaria Division). Thereafter, he was permitted to retire from service on 30.09.2008 on attaining the age of superannuation. It is seen that the second respondent, by referring to the order of the third respondent, stated that the Block Medical Officer, Government Primary Health Centre, Medavakkam, will be held responsible for recovery of the entire excess arrears from the concerned Health Inspectors. As the first respondent did not comply with the direction, the second respondent has passed the proceedings dated 27.09.2004 bearing Ref.No.1882/A1/2003, stating that excess arrears were paid to certain Health Inspectors by mistake. Thereafter, modified pay fixation order dated 10.04.2006 was issued stating that excess pay and allowances drawn by the individual from 11.06.1991 to till date has to be recovered from the pay bill of April, 2006. But, the petitioner neither challenged the order dated 08.05.2003 of the second respondent, nor another proceedings dated 27.09.2004 nor the modified pay fixation order dated 10.04.2006. However, the petitioner has approached this Court belatedly with a huge and unexplained delay of ten long years, that too without any proper explanation for the said delay.

4.Therefore, on this score, the writ petition is liable to be dismissed, accordingly, the same is dismissed on the ground of delay and laches. No costs. WMP.3325 of 2016 is closed.
tsh

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

- 1.The Senior Civil Surgeon
Government Primary Health Centre,
Medavakkam, Chennai-100.
- 2.The Deputy Director of Health Services
No.23, Jones Salai, Saidapet, Chennai-15.
- 3.The Director
Public Health and Preventive Medicine
DMS Compound, Anna Salai, Teynampet, Chennai-6.

+ 1 cc to M/s.Uma,Advocate, SR 7148
+ 1 cc to Govt.Pleader, High Court, Madras SR 7535

mg(co)
prk11/3

W.P.No.4001 of 2016.