

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.12665 OF 2007

ORDER:

The jurisdiction of this Court, under Article 226 of the Constitution of India, is invoked by the petitioner questioning the proceedings of the Depot Manager, Kalvakurthy dated 24.04.2007 whereby the earlier family planning incentive increment granted to the petitioner (a conductor of Kalvakurthy Depot), was withdrawn on the ground that the family planning incentive was in existence in the school where the petitioner's wife Smt. Ch. Sukanya was working as a Secondary Grade Teaching Assistant.

Clause 7 of the scheme, no doubt, stipulates that where the spouse of an employee of the Corporation has undertaken sterilization operation, and is working elsewhere where there is an incentive scheme in operation, the employees of the Corporation shall not be allowed in the incentive increment. This Clause would have required the petitioner's wife to claim the benefit of family planning incentive increment in the MPP school where she was working. The fact, however, remains that the family planning incentive increment was granted to the petitioner on 01.08.1999 and it is only after eight years, in the year 2007, that the incentive increment was sought to be withdrawn. At this length of time it would not be possible for the petitioner's wife to now claim the benefit of the family planning incentive increment from the school where she was working. That, however, would not justify both the petitioner and his wife claiming the benefit of family planning incentive increment, as such a benefit is available only to one of them not to both.

Sri V. Narasimha Goud, Learned Counsel for the petitioner, would submit that the petitioner's wife has not claimed the family planning incentive increment from the school where she is working and, in such circumstances, denial of the said incentive increment to the petitioner is illegal.

Ends of justice would be met if, considering the long length of time for which the petitioner was extended the benefit, the impugned order, withdrawing the family planning incentive increment, is set aside making it clear that this order shall not preclude the respondent-Corporation from enquiring whether the petitioner's wife has also been extended the family planning incentive increment in the school in which she is working and, in case she has been extended such a benefit, to then initiate proceedings, in accordance with law, for recovery of the family planning incentive increment paid to the petitioner. Needless to state that, in case the petitioner's wife has not been extended the family planning incentive increment in the school where she was employed as an assistant, the Corporation shall not recover or withdraw the family planning incentive increment granted earlier to the petitioner. The Writ Petition stands disposed of accordingly. The miscellaneous petitions, pending if any, shall also stand disposed of. No costs.

RAMESH RANGANATHAN, ACJ

Date: 17.09.2016

MRKR