

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION No.6311 OF 2004

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ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India seeking a Writ of Mandamus declaring the action of the respondents in not sanctioning the arrears of salary as directed by the Hon'ble Supreme Court in W.P. (Civil) No.137 of 1998 and batch on par with the petitioners therein as arbitrary, illegal and violative of Articles 14 and 21 of the Constitution of India and consequently direct the respondents to pay the arrears of salary as directed by the Hon'ble Supreme Court with effect from 01.04.1990 in two equal installments one on or before 30.04.2004 and the final installment on or before 31.07.2004.

2. The facts leading to filing of the present writ petition are briefly as follows:

The petitioner was appointed as temporary Civil Assistant Surgeon on a daily honorarium of Rs.50/- per day by respondent No.4 by proceedings dated 17.12.1986. The petitioner joined the duty at Mandal Primary Health Center, Thavanampalle, Chittoor District under the control of respondent No.2. The petitioner worked as Honorary Civil Assistant Surgeon from 22.12.1986 to 26.12.1991 in the above said PH Center. The petitioner was appointed as Civil Assistant Surgeon in the A.P. Medical and Health Services as per the proceedings of respondent No.1 dated 18.12.1991 and he joined the service of the Government as Civil Assistant Surgeon with effect from 27.12.1991. Hence, the present writ petition.

3. The contention of the learned counsel for the petitioner is that the persons, who were appointed as Civil Assistant Surgeons on a daily honorarium of Rs.50/- per day, were paid regular salary on par with the Civil Assistant Surgeons.

4. The respondent Nos.1 to 4 did not choose to file counter.

5. It is not in dispute that the petitioner worked as Civil Assistant Surgeon with effect from 22.12.1986 to 26.12.1991 on a daily honorarium of Rs.50/- per day. A perusal of the record reveals that some of the doctors, who were appointed on honorarium basis, filed W.P.M.P.No.33168 of 2000 in W.P. No.26034 of 2000 and in the said miscellaneous petition, the Division Bench of this Court on 27.12.2000 passed the following order:

“Interim direction to the respondents to pay arrears of salaries to the petitioners as directed by the Supreme Court with effect from 01.04.1990 in two equal installments, one on or before 31.12.2000 and the final installment on or before 31.03.2001.”

6. The persons, who were appointed as temporary doctors, also approached the Hon'ble Supreme Court seeking regular salary vide Writ Petition (C) No.137 of 1998 and in the said writ petition, the Hon'ble Supreme Court passed the following order:

“Rule Nisi.

Learned counsel for the respondents waives service of rule.

By consent of learned counsel for the parties this Writ Petition is taken up for final disposal.

The short question is whether the respondents should not have accepted the petitioners case for being granted similar relief which was given to other doctors similarly situated like them from 01st April 1990 pursuant to the Government Order in question. It is not in dispute between the parties that similar relief was given to all other doctors whose cases were identical with that of the present eight petitioners. But the ground made out by the respondents in the counter affidavit is that because they came to this Court and got order from this Court they have been given the relief. Be that as it may, these petitioners also have come to this Court. We, therefore, deem it fit to pass similar appropriate order which was passed by this Court earlier in the petitions filed by similarly situated other

doctors. The said decision of this Court was rendered by a Bench of this Court on 18th October 1995 in Civil Appeal No.4919 of 1989 and Writ Petition (C) No.506 of 1988 and others. In the light of the said decision this petition is allowed. Rule is made absolute.

The respondents shall pay to these petitioners arrears of regular pay scale in the following manner:

1. 50% of the arrears from 01st April 1990 shall be paid in two equal installments - one on or before 31st May 1999 and other on or before 31st December 1999.

2. The balance amount of 50% of arrears will be credited to their respective General Provident Fund Accounts.

No costs."

7. The facts of the case on hand are almost identical to the facts of the case cited supra.

8. Having regard to the facts and circumstances of the case and also the principle enunciated in the case cited supra, the Writ Petition is allowed directing the respondents to pay the regular salary to the petitioner with effect from 22.12.1986 to 26.12.1991. No costs.

9. Consequently, Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 16.06.2016

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