BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :18.12.2017

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.4683 of 2011
and
M.P(MD)No.1 of 2011

A.S.Arumugam ... Petitioner

Vs.

1. The Chief Educational Officer,
   C.E.O.Office, Pudukkottai,
   Pudukkottai District.

2. The Commissioner of Treasury and Accounts,
   Office of Commissioner of Treasury and Accounts,
   Panagal Building, Saidapet, Chennai-15.

3. The Headmaster,
   Government High School,
   Avoor, Pudukkottai District.

4. The Special Secretary to Government,
   Finance (Salaries) Department,
   St.George Fort, Chennai. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the first respondent's proceedings made in Na.Ka.No.7216/Aa5/2009, dated 26.01.2010, quash the same and further direct the first respondent to sanction a sum of Rupees one lakh towards medical reimbursement claim of the petitioner's son open heart surgery which was held on 24.12.1998 as per Tamil Nadu Government Employees' Health Funds Scheme within a stipulated period as may be fixed by this Court.

For Petitioner : Mr.R.Sundar
For Respondents : Mr.S.Kumar
Additional Government Pleader

ORDER

This writ petition has been filed, challenging the impugned proceedings of the first respondent in Na.Ka.No.7216/Aa5/2009, dated 26.01.2010, and seeking a direction to the first respondent to sanction a sum of Rupees one lakh towards medical reimbursement claim of the petitioner's son, open heart surgery which was held on 24.12.1998, as per Tamil Nadu Government Employees' Health Funds Scheme.

2.The case of the petitioner is that he was working as a Tamil Pandit in the Government High School, Avoor, Pudukkottai District. He was superannuated on 31.08.1998 and his services were extended from 01.09.1998 to 31.05.1999. As per the G.O.Ms.No.18 Fin(A), dated 09.01.1992 and G.O.Ms.No.194 Fin(Sal), dated 16.03.1993, the Government have constituted Tamil Nadu Government Employees' Health Funds Scheme, to provide relief to Government Employees and their family members for specialized advanced surgeries. The petitioner's son, namely, Senthilkumar, has suffered from RHD, severe AR, and moderately severe MR and advised to undergo an open heart surgery with double valve replacement. He was admitted on 23.12.1998, in Madras Mission Hospital, Chennai, and he has underwent surgery on 24.12.1998, on payment of total expenditure amounting to Rs.2,46,735/- paid by the petitioner and discharged on 05.01.1999. Since he was a member of Tamil Nadu Government Employees' Health Funds Scheme, he has claimed the permissible limit of Rs.1,00,000/- (Rupees One lakh only), towards reimbursement claim through the third respondent. The first respondent herein has sanctioned payment of Rupees one lakh with a direction to the second respondent to draw the same and send the sanctioned amount by way of demand draft in favour of the petitioner. The second respondent has not complied with the direction of the first respondent in Rc.No.9729/B4/98, dated on 06.01.2000. The first respondent again directed the second respondent to issue a demand draft in favour of the petitioner, with regard to said reimbursement amount. But the second respondent did not taken any steps. Hence, by proceedings dated 16.11.2000, made in Rc.No.9729/B4, the first respondent again passed the similar order in his favour, but the second respondent was not inclined to establish on proper. On 26.01.2010, the first respondent herein has passed the impugned order and rejected the request for reimbursement on the ground that the subscription fee for the said Health scheme had not been deducted from the salary during the period from 01.09.1998 to 31.05.1999.

3.The case of the second and fourth respondents in their counter is that regarding the averments made by the petitioner, a reply had been given by the second respondent in Rc.No.19004/2010/H4, dated 21.05.2010, under the Right to Information Act, for that claim. Further, it is submitted that the Treasury Officer, Trichy in his reference No.R.C.No.13928/G5, dated 12.07.2010, had informed that a subscription of Rs.10/- only recovered from the petitioner with effect from 1997-1998 and Rs.5/- only with effect from 01.10.1998. The Treasury Officer had not stated that whether the subscription recovered from the petitioner was only towards the Tamil Nadu Government Employees' Health Funds Scheme or for Pensioner Health Fund Scheme. Therefore, the petitioner could not presume that the subscription recovered from him was only for the Tamil Nadu Government Employees' Health Funds Scheme and hence, he is not entitled to the relief under the Tamil Nadu Government Employees' Health Fund Scheme.

4.It is seen from the materials on record, the petitioner's son was admitted on 23.12.1998 in the Madras Mission Hospital, Chennai and undergone surgery on payment of total expenditure amounting to Rs.2,46,735/-and discharged on 05.01.1999.

5.The Chief Educational Officer, Pudukkottai, issued proceedings dated 25.03.1999, wherein it has been recommended to the second respondent to issue the amount of Rupees one lakh was deducted to him. Vide proceedings dated 06.01.2000, the Chief Educational Officer, Pudukkottai, stated that the petitioner was a regular subscriber to the Health Funds Scheme from the inception (i.e) from June 22nd onwards and up to August 1998 subscription was recovered from him. The second respondent was directed to issue a cheque for Rupees one lakh to the petitioner.

6.The Chief Educational Officer, vide proceedings dated 26.01.2010, passed the impugned order, contrary to the orders passed earlier, wherein they have denied the amount of Rs.5/- deducted during his re-appointment period. Under the Right to Information Act, 2005, the District Treasury Officer, Trichy has submitted that the petitioner was retired from service with effect from 31.08.1998 and granted extension of service from 01.09.1998 to 31.05.1999. The District Treasury Officer, Trichy, has clearly informed to the petitioner that Rs.10/- had been deducted from the petitioner's salary during 1997-98 and Rs.5/- per annum was deducted from 01.09.1998.

7.The petitioner account has already been deducted for Rs.5/- and Rs.10/- and he did not know, in what / which head, the amount was deducted and hence he is entitled to get Rupees one lakh.

8.In view of the above, this Court directs the respondents to pay a sum of Rupees one lakh to the petitioner, within a period of eight weeks from the date of receipt of a copy of this order.

9.With the above direction, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Chief Educational Officer,
   C.E.O.Office, Pudukkottai,
   Pudukkottai District.

2. The Commissioner of Treasury and Accounts,
   Office of Commissioner of Treasury and Accounts,
   Panagal Building, Saidapet,
   Chennai-15.

3. The Headmaster,
   Government High School,
   Avoor, Pudukkottai District.

4. The Special Secretary to Government,
   Finance (Salaries) Department,
   St.George Fort, Chennai.

+ 1 CC TO Mr.R.SUNDAR, ADVOCATE IN SR No. 93409
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 93808

SSS
TE/KK/SAR-4 : 22/03/2018 : 4P/7C

ORDER MADE IN
W.P(MD)No.4683 of 2011 and
M.P(MD)No.1 of 2011
18.12.2017.