

HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.23644 OF 2006

Date 17.11.2017

Between:
Gouroji.

... Petitioner

AND

The Principal Secretary, Medical and Family Welfare (C1)
Department, Secretariat, Hyderabad and others.

.....Respondents



HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.23644 of 2006

ORDER:

The Writ Petition is filed to declare the inaction of respondents, in paying enhanced diet charges as per G.O.Ms.No.255, Health, Medical and Family Welfare (C1) Department, dated 20.06.2003, as being illegal and arbitrary. A consequential direction is sought to respondents to pay enhanced diet charges as per G.O.Ms.No.255, Health, Medical and Family Welfare (C1) Department, dated 20.06.2003, with effect from 20.06.2003.

Brief facts of the case, according to the petitioner, are that the petitioner is a contractor for supply of diet to the inpatients and medical officers in the Area Hospital, Miryalaguda, Nalgonda District (hereinafter called 'Hospital'), and the said hospital is under the control of respondent No.2. Originally, the rates for supply of diet were fixed in the year 1983. The rates were enhanced from Rs.5/- to Rs.10/- per day for general patient, vide G.O.Ms.No.257, Health, Medical and Family Welfare (C1) Department, dated 31.05.1995, with effect from 01.04.1995. Respondent No.2, vide his letter dated 12.01.2000, again recommended for enhancement of diet charges and, accordingly, government issued G.O.Ms.No.255, Health, Medical and Family Welfare (C1) Department, dated 20.06.2003 enhancing diet charges from Rs.10/- to Rs.15/- to the general patient and Rs.15/- to Rs.20/- to T.B. patients.

The said enhanced rates were applicable to all the hospitals under the control of respondent No.2. After issuance of G.O, petitioners have been supplying diet as per the norms enumerated in G.O.Ms.No.255, Health, Medical and Family Welfare (C1) Department, dated 20.06.2003. It is stated that though diet was supplied as per norms and G.O. has come into effect on 20.06.2003, it was not implemented till 30.09.2004, and was not paid enhanced charges. As the respondents did not implement the enhanced diet charges issued by the Government, vide G.O.Ms.No.255, Health, Medical and Family Welfare (C1) Department, dated 20.06.2003, diet contractors filed W.P.No.15124 of 2004 and batch and the writ petitions were disposed of directing respondent No.2 to implement G.O.Ms.No.255, Health, Medical and Family Welfare (C1) Department, dated 20.06.2003, if it is in force, and to pay enhanced rates. Petitioner is entitled to enhance diet charges as per G.O.Ms.No.255, Health, Medical and Family Welfare (C1) Department, dated 20.06.2003, but respondent No.2 did not implement diet charges and paid enhanced rates from 30.09.2004 only. The Medical Superintendent has issued a certificate stating that the petitioner is supplying diet as prescribed by G.O.Ms.No.255, Health, Medical and Family Welfare (C1) Department, dated 20.06.2003, during the period 20.06.2003 to 30.09.2004. In spite of that, respondents have not paid difference of enhanced rates.

Counter affidavit has been filed by respondent No.4 stating that petitioner has supplied diet pursuant to G.O.Ms.No.255, Health, Medical and Family Welfare (C1) Department, dated 20.06.2003, as per the certification issued by the Medical Superintendent, Area Hospital, Miryalaguda, Nalgonda. It is further stated that the office of respondent No.4 did not pay enhanced charges mentioned in the above G.O. from 20.06.2003 to 30.09.2004 though the petitioner supplied diet as per norms specified in the said G.O. The reason, for not paying enhanced charges, is that the petitioner never made any representation to the hospital authorities for payment of enhanced diet charges.

The Writ Petition came up 'for admission' on 15.11.2006 and notice to respondents was ordered on that day.

Heard the learned counsel for the petitioner and Smt Rachna S.Waddepalli, learned Standing Counsel for respondent No.2.

Counsel for respondent No.2 drew attention of this Court to para 4 of the counter affidavit filed by respondent No.4, wherein it is stated that petitioner had supplied diet in accordance with G.O.Ms.No.255, Health, Medical and Family Welfare (C1) Department, dated 20.06.2003, as per the certification issued by the Medical Superintendent, Area Hospital, Miryalaguda, Nalgonda and that he was not paid diet charges as per said G.O. from 20.06.2003 to 30.09.2004.

As it has been categorically admitted by respondent No.4 that petitioner has supplied diet in accordance with G.O.Ms.No.255, Health, Medical and Family Welfare (C1) Department, dated 20.06.2003, and he was not paid enhanced charges from 20.06.2003 to 30.09.2004, respondent No.2 is directed to pay enhanced charges to petitioner herein, in accordance with G.O.Ms.No.255, Health, Medical and Family Welfare (C1) Department, dated 20.06.2003, from 20.06.2003 to 30.09.2004.

The Writ Petition is, accordingly, allowed.

As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

KONGARA VIJAYA LAKSHMI, J

Dt:17.11.2017
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