

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20.03.2018

Coram

THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE Mr. JUSTICE P.VELMURUGAN

W.A.No.1745 of 2015
and M.P.No.1 of 2015

1. The Principal Secretary
The Government of Tamil Nadu
Department of Health
Fort St.George
Chennai 5.
 2. The Principal Secretary
The Government of Tamil Nadu
Department of Finance
Fort St.George
Chennai 5.
 3. The Director of Medical and Rural Health Services
The Government of Tamil Nadu
Chennai 6.
 4. The Joint Director of Medical and Rural Health Services
District H.Q.Hospital
The Government of Tamil Nadu
Erode.
- .. Appellants/Respondent

Vs.

Dr.U.S.Prakasam

..Respondent/Petitioner

Writ Appeal filed under Clause 15 of Letters Patent to set-aside the order of this court dated 17.10.2014 made in W.P.No.27696 of 2010.

Prayer in W.P. 27696/2010:

Writ Petition filed under Article 226 of the constitution of India for the issuance of a Writ of Certiorarified Mandamus Calling for all records connected with the G.O.354/ H&F W (B2) dt.23.10.2009 from the 1st and 2nd respondents and quash the Clause No.7 of G.O.354/ H&F W (B-2) dt.23.10.2009 null and void and direct the respondents to implement the recommendations from the date of submission of the report by the Committee.

For Appellants : Mrs.A.Sri Jayanthi
Special Government Pleader

For Respondent : Mr.A.Thiagarajan
Senior Counsel
for Mr.S.Ramesh Kumar

J U D G M E N T

[Judgment of the Court was delivered by K.K.SASIDHARAN,
J.]

The writ petition filed by the respondent to grant him the benefits of the Government Order in G.O.(Ms).No.354, Health and Family Welfare (B2) Department, dated 23 October, 2009 after quashing clause (7) of the said Government Order was allowed by the learned single Judge. The order is under challenge at the instance of the State.

2. When the intra court appeal was taken up for hearing, the learned Special Government Pleader appearing on behalf of the appellants and the learned Senior Counsel for the respondent fairly submitted that the issue raised in this appeal is covered by the decision of a co-ordinate Bench of this Court in State of Tamil Nadu vs. The Tamil Nadu Government Retired Medical Officers Association, Madurai (judgment dated 24 March, 2015 in W.A.(MD) Nos.922 and 923 of 2013).

3. The very same Government Order in G.O.(Ms).No.354, dated 23 October, 2009 was the subject matter in W.A.(MD)Nos.922 and 923 of 2013.

The Division Bench while setting aside the order passed by the learned single Judge made it clear that it would not be possible to extend the cut off date taking into account the date of retirement of the employee. The said judgment is applicable to the case on hand. We are, therefore, of the view that there is no need for a fresh adjudication of the issue raised in this appeal.

4. The learned Senior Counsel for the respondent submitted that the respondent submitted a representation on 21 June, 2016 and the same is pending consideration before the Director of Medical and Rural Health Services, Government of Tamil Nadu. According to the learned Senior Counsel, the case of the respondent has already been forwarded with recommendation by the third appellant. The learned Senior Counsel submitted that the respondent retired 23 days prior to the cut off date and as such, there should be a direction to consider his case sympathetically.

5. We direct the Director of Medical and Rural Health Services, to consider the representation submitted by the respondent dated 21 June, 2016 on merits, taking into account the peculiar facts. Such exercise shall be completed within a period of four months from the date of receipt of a copy of this judgment.

The intra court appeal is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

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To

1. The Principal Secretary
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Department of Health
Fort St. George
Chennai 5.
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Government of Tamil Nadu, Erode.
- +1 CC to Mr. S. Ramesh Kumar, advocate sr 20971.
+1 CC to The Govt. Pleader sr 21850.

W.A.No.1745 of 2015

EV(CO)
SP(11/04/2018)