

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.11.2019

Coram

The Honourable Mr.Justice D.KRISHNAKUMAR

W.P.No.10298 of 2013

B.Ramalingam

...Petitioner

Versus

- 1.The State of Tamilnadu represented
by its Secretary to Government,
Health and Family Welfare Department,
Fort St.George, Chennai - 600 009.
- 2.The Director of Public Health and Preventive Medicine,
DMS Compound, Chennai - 600 006.
- 3.The Deputy Director Health Services,
Villupuram District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records on the file of the first respondent in his proceedings No.GO (Valayam) No.1088 Health and Family Welfare Department (Z 2) Department dated 17.11.2011 and quash the same and direct the respondents to pay 12% interest for the payment of DCRG for the entire period commencing from 21.12.2004 till 16.03.2007.

For Petitioner : Ms.P.Papitha

For Respondents : Mrs.K.Bhuvaneswari,
Additional Government Pleader

O R D E R

The relief sought for in the present writ petition is to call for the records on the file of the first respondent in his proceedings No.GO (Valayam) No.1088 Health and Family Welfare Department (Z 2) Department dated 17.11.2011 and quash the same and direct the respondents to pay 12% interest for the payment of DCRG for the entire period commencing from 21.12.2004 till 16.03.2007.

2. It is the case that the petitioner was initially appointed as vaccinator in National Small Cause Eradication Programme on 05.08.1966. By virtue of G.O.Ms.No.2324 dated 27.10.1977, 214 vaccinators including the petitioner were directed to be regularized with effect from the date of their initial appointment by they were to be granted time scale of pay only from a future date noted in the said Government order. The petitioner's service was regularized with effect from the date of his initial appointment i.e., 05.08.1966 by relaxing the age and educational qualification and he was brought to time scale w.e.f. 01.01.1976 as per G.O.Ms.No.2334 dated 27.10.1977.

2.1 The petitioner attained the age of superannuation on 31.07.2004. His pension proposals were sent by the Medical Officer Government PHC, Mayilam to the Accountant General dated 19.10.2004 and gratuity payment order was passed on 21.12.2004. The DCRG to the tune of Rs.1,67,244/- was paid to the petitioner only on 16.03.2007. Hence, the petitioner filed a writ petition in W.P.No.25743 of 2007 seeking to direct the respondent therein to pay interest for the belated payment of DCRG. By order dated 23.09.2010, this Court allowed the said writ petition directing the respondents therein to pay interest at the rate of 12% for the belated payment.

2.2 However, the respondents had not complied with the order of this Court dated 23.09.2010. Hence, the petitioner filed a Contempt Petition No.399 of 2011 and on 27.04.2011, the second respondent placed a Letter dated 27.04.2011 before this Court and falsely stating as if the petitioner's pay was wrongly fixed and recovery orders were issued and the case was filed and the same was pending for more than 10 years and finally G.O.Ms.No.222 dated 21.09.2006 was issued waiving recovery orders issued to the vaccinators and only because of the same DCRG was paid to the petitioner 4 months belatedly on 16.03.2007. Relying upon the said Letter, this Court closed the said Contempt Petition. Subsequently, the Government issued G.O.Ms.No.1088 dated 17.11.2011 granting interest for 4 months without even properly calculating the said amount. Hence, left with no other alternative, the petitioner has filed the present writ petition for the relief stated supra.

3. Heard the learned counsel on both sides.

4. On perusing the materials available on record, it is seen that the relief sought for by the petitioner in the present writ petition and relief sought for by him in W.P.No.25743 of 2007 is exactly one and the same. Already vide order dated 23.09.2010, this Court allowed W.P.No.25743 of 2007 and the relief sought for by the petitioner was granted to him. Now, this is the second round of litigation, however, the petitioner

is seeking for the same relief which he sought in the earlier round of litigation. Therefore, the petitioner is estopped from seeking the relief which has already granted by this Court.

5. In the result, this Writ Petition is dismissed as being devoid of merits. No costs.

Sd/-
Assistant Registrar(CS-III)

// True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government,
Health and Family Welfare Department,
Fort St.George, Chennai - 600 009.
- 2.The Director of Public Health and Preventive Medicine,
DMS Compound, Chennai - 600 006.
- 3.The Deputy Director Health Services,
Villupuram District.

+1cc to Government Pleader, SR.No.96569.

W.P.No.10298 of 2013

NRL(CO)
CSR: 29/01/2020