

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.32699 of 2004

and WPMP.No.39590 of 2004

N.S.Venkatesan

... Petitioner

Vs.

1. The Secretary to Government,
Home Department,
Fort St. George,
Chennai 600 009.

2. The Superintendent
Government Royapettah Hospital,
Chennai 14.

3. The Secretary to Govt.
Health and Family Welfare Dept.
Fort St. George,
Chennai 600 009.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the impugned order dated 16.03.2004 on the file of the Superintendent, Government Royapettah Hospital, Chennai 14, the second respondent herein, and made in Ref. No.4183/SC 86 and quash the same.

For Petitioner : Mr.M.Muthappan

For Respondents : Mrs.K.Bhuvaneswari, AGP

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O R D E R

This petition has been filed to quash the order of the second respondent dated 16.03.2004 made in Ref. No.4183/SC 86.

2. The petitioner herein, who was employed as a Dental Mechanic under the second respondent herein, had executed a bond dated 06.07.1986, undertaking to join duty under the second respondent after his deputation in Saudi Arabia, within a period of two years. Since the petitioner herein did not join the duty within the prescribed time, the respondents herein had invoked the bond executed by the petitioner and claimed the indemnity amount of Rs.50,000/-. There was a default committed by the petitioner in not paying the bond amount in time. Subsequently, the amount of Rs.50,000/- came to be paid by the petitioner along interest in 2002, totalling to Rs.69,250/-.

3. The present impugned order dated 16.03.2004 is a claim of Rs.1,25,588/-, which according to the respondents is a penal interest on over due bond amount at the rate of 2.75% per annum and penal interest on overdue interest on interest at 2.75% per annum.

4. Apparently, the terms of the indemnity bond executed by the petitioner does not refer to the percentage of the interest or the entitlement of the respondents to claim the penal interest on the overdue interest. The terms employed in the bond are that the respondents are entitled to invoke the bond for a sum of Rs.50,000/- together with interest at the Government rate. While that being so, the present impugned order, which has claimed a sum of Rs.1,25,588/- by the respondents being the penal interest on over due bond amount and penal interest on overdue interest on the interest, have not been prescribed under the terms of the Bond. There are no regulations entitling the Government to seek such penal interest and the interest on the overdue interest. In the absence of any regulations or any of the terms of the bond making the petitioner liable to pay such penal interest, the respondents may not be justified in seeking for such penal interest. As such, the impugned order dated 16.03.2004 cannot be sustained.

5. For all the foregoing reasons, the Writ Petitioner is entitled to succeed. Consequently, the order dated 6.03.2004 in Ref. No.4183/SC 86 on the file of the Superintendent, Government Royapettah Hospital, Chennai is quashed. The Writ Petition stands allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

pvs
To

1. The Secretary to Government,
Home Department,
Fort St. George,
Chennai 600 009.
2. The Superintendent
Government Royapettah Hospital,
Chennai 14.
3. The Secretary to Govt.
Health and Family Welfare Dept.
Fort St. George,
Chennai 600 009.

+1cc to Mr.M.Muthappan , Advocate SR.No. 29701

+1 cc to Government Pleader SR.NO.30468

W.P.No.32699 of 2004

A.SK(08/05/2019)



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