

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 16.09.2019

CORAM :

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.8407 of 2010 and MP No.1 of 2010

P.Nageswara Rao

... Petitioner

Vs

1. The Secretary to Government,
Rep. by its Secretary Health Department,
Fort St. George, Chennai
 2. The Director of Medical Education,
Kilpauk, Chennai 600 010.
 3. The Dean,
Madras Medical College / General Hospital,
Chennai
- ... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari to call for the records on the file of the third respondent relating to the order issued in K.Dis.No.8851 /Audit/G.H./2010 dated 02.02.2010 and quash the same.

For Petitioner : Mr.I.Sajin for
Mr.R.Chandrasekaran

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

O R D E R

This writ petition has been filed to call for the records on the file of the third respondent relating to the order issued in K.Dis.No.8851 /Audit/G.H./2010 dated 02.02.2010.

2. The petitioner was working as a Record Clerk in the Ophthalmic Hospital Egmore, Chennai on 05.06.1973. Subsequently, he was promoted to various posts and finally, he was promoted to the Post of Assistant on 01.04.2003 and on attaining the age of superannuation on 30.04.2008, the petitioner was allowed to retire from service after giving declaration to the effect that he is willing to repay the amount to be assessed towards the audit objections.

3. The petitioner submitted a representation dated 23.06.2008 to the respondent claiming for the DCRG amount due and payable to him. However, to his shock and surprise, the

2nd respondent issued an order of recovery dated 02.02.2010, calculating the amount payable by the petitioner towards recovery of Death Cum Retirement Gratuity as Rs.1,32,999/- (Rupees one lakh thirty two thousand nine hundred and ninety nine only). Challenging the legality of the said impugned order of recovery, this instant writ petition has been filed.

4. The learned counsel for the petitioner submitted that the respondents should have raised the audit objection for the year 2006 - 2008, at the time of retirement of the petitioner. The learned counsel for the petitioner further submits that the fresh audit objection cannot be taken into account while passing recovery order and same is illegal and hence, prays for quashment of the same.

5. The order impugned in the writ petition directing recovery of Rs.1,32,999/- reads as under:-

PROCEEDINGS OF THE DEAN, GOVERNMENT GENERAL HOSPITAL
Chennai -3

Present : Dr.J.Mohanasundaram, M.D., Ph.D., DNB

K.Dis No.8851/Audit/G.H./2010 dated 02.02.2010

Sub : Audit - Government General Hospital, Chennai - 3 -
Pending Audit Para No.129 (2003 to 2004), 29, 33, 34, 30,
72 (2004-2006) - Recovery of loss to Government from
the DCRG amount of Thiru P.Nageswara Rao, formerly
Electrical Store Keeper of Government General Hospital,
Chennai - 3 and Assistant (Retired), Madras Medical
College, Chennai - 3 - Orders - Regarding.

Ref : The Director of Medical Education's Letter No.30140/
E2/2008 dated 28.12.2009.

Thiru.P.Nageswara Rao, formerly Electrical Store Keeper of this hospital and later retired (30.04.2009 AN) as Assistant from the Madras Medical college, Chennai - 3 has to settle certain Audit objections which involved Amount Loss to Government to the tune of Rs.1,32, 999/- as detailed below.

The Director of Medial Education, Chennai-10 in his letter cited has directed to issue recovery orders for the recovery and loss to Government that is Rs.1,32,999/-.

S.No.	Period of Audit	Pending Paras	Audit loss to Government (Rs.)
1.	2003-2004	129	305/-
2.	2004-2006	29	2,700/-
	2004-2006	33	2,700/-
	2004-2006	34	2,160/-

S.No.	Period of Audit	Pending Paras	Audit loss to Government (Rs.)
	2004-2005	30	1,620/-
3.	01.04.2006 31.03.2008	- 72	1,23,514/-
	Total Rs.		1,32,999/-

The petitioner has not substantiated as to how the order of recovery is bad.

6. In the absence of any material, this Court is not inclined to interfere in this matter and accordingly, this writ petition stands dismissed. However, it is left open to the petitioner to submit a fresh representation before the concerned Authority, to substantiate his grievance. The representation shall be made within a period of four weeks from the date of receipt of copy of this order and thereafter, the respondents/concerned authority is directed to consider his representation and pass orders, within a period of four weeks thereafter. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Health Department,
Fort St. George, Chennai
2. The Director of Medical Education,
Kilpauk, Chennai 600 010.
3. The Dean,
Madras Medical College / General Hospital,
Chennai

+1cc to Mr.R.Chabdrasekaran, Advocate, S.R.No. 79579
+1cc to the Government Pleader, S.R.No. 79679

W.P.No.8407 of 2010

BR (CO)

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GN 12/11/2019