

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 17.12.2019	Delivered on 19.12.2019
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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.8893 of 2018
and
WMP No.10750 & 23053 of 2018

STC Ex.Employees Welfare Association
(Regd No.16 of 2007)
Rep.by its President Mr.S.Krishnamurthy,
No.1, Vasuki Street, Krishnapuram,
Ambattur,
Chennai 600053. ... Petitioner

.Vs.

- 1.The Union of India,
Rep.by its Secretary,
Ministry of Commerce and Industry,
Department Commerce, Udyog Bhavan,
New Delhi.
- 2.The State Trading Corporation of India Ltd,
Rep.by its Chairman & Managing Director,
Jawahar Vyapar Bhavan,
No.1, Tolstoy Marg,
New Delhi-110 001.
- 3.The State Trading Corporation of India Ltd,
Rep.by its General Manager (Personnel),
Industrial Relations Section,
New Delhi-110 001.
- 4.The State Trading Corporation of India Ltd,
Represented by its Manager (Personnel)
STC Trade Centre
No.A-9, Thiru.vi.Ka.Industrial Estate,
Guindy, Chennai-600 032.

.. Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for records in Circular No.IR/09/2018 dated 15.05.2018 on the file of the third respondent herein and quash the same and direct the respondents to implement the STC (Retired Employees) Medical Benefit Scheme - 1981, dated 03.10.1981.

[Amendment carried out by an order dt.17.12.2019 in WMP No.23052/2018 in WP.No.8893/2018 by NAVJ].

For Petitioner : Mr.V.Chamdrakanthan

For R 1 : *#
Mrs.S.Meenakumari
Central Govt.Standing Counsel

For R 2 to R 4 : Mr.K.V.Prakash

O R D E R

The present Writ Petition has been filed challenging the circular issued by the 3rd respondent on 15.05.2018, suspending the claims of the EX-Employees of the State Trading Corporation of India Limited towards hospitalisation and medical reimbursement and also the subsequent notification dated 15.05.2018 and for a direction to extend the benefits to the members of the petitioner Association.

2.The members of the petitioner Association are the retired Employees of State Trading Corporation of India Limited. The object of the Association is to protect the interest and welfare of the retired Employees of the Corporation. In the year 1981, the Corporation introduced a Scheme called as "STC Retired Employees Medical Benefit Scheme" and it was made effective from 01.10.1981. This Scheme was made applicable to the Employees, who will retire on or after 18.05.1981. Initially, an annual contribution was fixed depending on the basic pay and subsequently it was made as a one time contribution which will be equivalent to 10 years annual contribution that has been fixed depending upon the basic pay. The members of the petitioner Association contributed towards this Scheme. The 3rd respondent through the impugned proceedings decided to review the Scheme by suspending the medical benefits to Ex-Employees and the same is made as the subject matter of challenge in the present writ petition.

3.The learned counsel for the petitioner submitted that the respondents are estopped from discontinuing with the scheme and they are bound to extend the Scheme for all life members and

the old retired people should not be left in lurch considering the high cost of medical treatment involved. The learned counsel for the petitioner submitted that the Scheme cannot be unilaterally terminated after it was agreed by the Corporation to provide for medical reimbursement to the retired Employees. The learned counsel further submitted that the Corporation wanted to suspend the Scheme only on the ground that it is running on loss. However, it is seen that the Corporation is earning profits every year and infact a VRS Scheme was introduced wherein, the very same offer was made to the Employees opting for VRS to join the Medical Reimbursement Scheme. The learned counsel submitted that this clearly shows that the ground taken by the Corporation is untenable. The learned counsel in order to support his submissions relied upon the judgment of the Delhi High Court in W.P(C).506/2018 & CM No.2176/2018,4573/2019&4574/2019, dated 24.05.2019.

4.Per contra, the learned counsel appearing on behalf of the respondents submitted that the Corporation is facing an accute financial crisis and it will not be possible for the Corporation to honour any payments to the hospitals towards medical reimbursement. The learned counsel submitted that the members who joined the Scheme have only contributed a meagre amount and huge medical expenditure cannot be sustained with this contribution more particularly since the Corporation is facing financial crisis. The learned counsel submitted that the Medical Scheme was introduced only as a circular and it cannot be construed as a contract and the Scheme itself is wholly dependent on the capacity of the Corporation to honour the payments to hospitals. Once this capacity is lost due to the financial crisis, it will not be possible for the Corporation to make the medical reimbursement. It is under these circumstances, the Scheme was suspended. The learned counsel submitted that an attempt was made to review the decision but however, it was felt that the Corporation was incapable of handling the financial burden and therefore, there was no scope for continuing with the Scheme.

5.The learned counsel submitted that by taking into consideration, the welfare of the retired employees and the high cost that will be involved for treating major ailments, a circular was issued by the Corporation on 18.06.2019 and it was decided to reimburse medical expenses towards major illness. The learned counsel submitted that the Corporation will stand by the commitment that was made by its circular dated 18.06.2019.

6.This Court has carefully considered the submissions made on either side and the materials available on record.

7.The State Trading Corporation of India Limited started the Scheme in the year 1981 with an avowed object of helping its retired Employees to meet the medical expenditure that is incurred by them after retirement. This Scheme went on till 2018 for nearly 37 years. The contribution was initially fixed as an annual contribution depending upon the basic pay and thereafter it was decided to collect a one time contribution equivalent to 10 years annual contribution. The maximum that an Employee will pay towards one time contribution will be a sum of rupees one thousand.

8.By means of the impugned circular dated 15.05.2018, the Corporation decided to suspend the Scheme on the ground that it is facing financial crisis. The Corporation is a Public Sector Undertaking and the major contribution is made by the Corporation towards this Scheme. Under normal circumstances, such withdrawal of the Scheme will not be permitted since Corporations are estopped from going back on their promise to provide for medical reimbursement to the retired employees. However, it is important to take into account the reality of the situation. The Corporation fears that it will not be able to fulfill the commitment by reimbursing the hospitals where the retired Employees will take treatment. It will be too embarrassing for the Corporation not to honour the commitment after a retired employee has already undergone treatment in a hospital. Therefore, taking stock of the situation, the Corporation has decided to suspend the Scheme.

9.The judgment of the Delhi High Court that was relied upon by the learned counsel for the petitioner may not directly apply to the facts of the present case. In that case, it was found that huge amounts were provided towards post retiral medical benefits and therefore the concerned employer was not permitted to withdraw from the Scheme. In the present case, the specific stand taken by the Corporation is that they are facing financial crisis and the State Trading Corporation has already been declared as NPA by many banks since 28.02.2018 onwards. The Corporation has filed a detailed counter affidavit in this regard and it shows that as on 31.03.2018, the outstanding bank dues works out to a sum of Rs.1761.17 crores and the over due works out to a sum of Rs.329.29 crores. With such a heavy financial burden, this Court cannot mechanically direct the Corporation to continue with the Medical Reimbursement Scheme. It must also be taken note of the fact that only a meagre amount has been contributed by the Employees based on the basic pay and the maximum that could have been contributed by an Employee is only Rs.1,000/-. Therefore, it is clear that the major contribution should be made only by the Corporation.

10.The respondent Corporation has taken into account the difficulties faced by the old retired Employees and therefore a bonafide attempt has been made to review the Scheme insofar as major life threatening deceases are concerned. The Corporation by its circular dated 18.06.2019, has agreed to meet the medical expenses of the retired Employees for the life threatening deceases that have been listed in the circular. Infact an affidavit has been filed by the Personal Manager of the Corporation on 09.07.2019 and it was informed to this Court that the above said circular has been brought into effect.

11.In view of the above discussion, this Court is not inclined to interfere with the decision taken by the respondent Corporation. However, in view of the subsequent development and the circular issued on 18.06.2019, the respondent Corporation is directed to provide the medical reimbursement to all eligible retired Employees who avail medical treatment in the empaneled hospitals/non-empanelled hospitals for major life threatening diseases. The respondent Corporation shall strictly comply with this circular and provide for reimbursement to the retired Employees.

This Writ Petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VI)

***Corrected as per Letter given by
Mrs.S.Meenakumary, Advocate
dt.28/02/2020**

Sd/-

**Assistant Registrar (CS-VI)
11-03-2020**

// True Copy//

Sub Assistant Registrar

KP
To

1.The Secretary, Union of India,
Ministry of Commerce and Industry,
Department Commerce, Udyog Bhavan,
New Delhi.

2.The Chairman & Managing Director,
State Trading Corporation of India Ltd,
Jawahar Vyapar Bhavan,
No.1, Tolstoy Marg,

**To be Substituted to the
order already
despatched on 28/2/2020**

New Delhi-110 001.

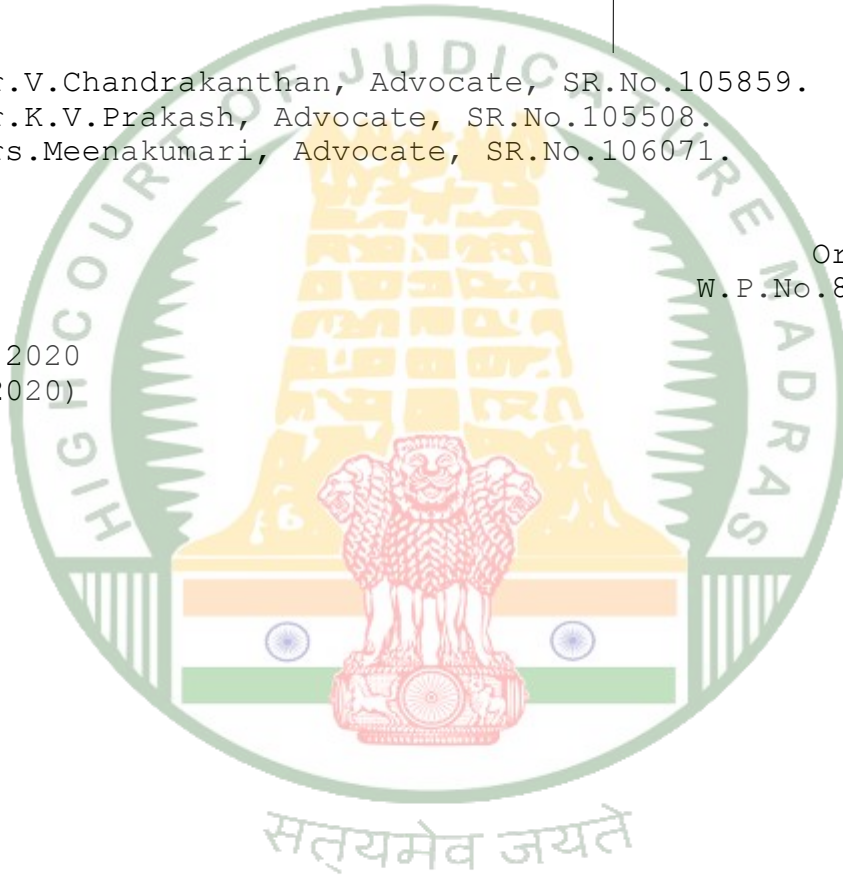
3.The General Manager (Personnel),
State Trading Corporation of India Ltd,
Industrial Relations Section,
New Delhi-110 001.

4.The Manager (Personnel),
State Trading Corporation of India Ltd,
STC Trade Centre
No.A-9, Thiru.vi.Ka.Industrial Estate,
Guindy, Chennai-600 032.

+1cc to Mr.V.Chandrakanthan, Advocate, SR.No.105859.
+1cc to Mr.K.V.Prakash, Advocate, SR.No.105508.
+1cc to Mrs.Meenakumari, Advocate, SR.No.106071.

EV(CO)
CSR:07.02.2020
CB(12/03/2020)

Order made in
W.P.No.8893 of 2018



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