

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 19.12.2019
CORAM
THE HON'BLE MR.JUSTICE D. KRISHNAKUMAR
W.P.No. 2808 of 2017

S.Veeraraghavan

..Petitioner

Vs

1.The Secretary
Health and Family Welfare Department,
Fort. St.George, Chennai-600009.

2.The Director of Medical Education,
Kilpauk, Chennai-600010.

3.The Superintendent
Government R.S.R.M Lying in Hospital
Royapuram, Chennai-600013

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent relating to G.O.(D) No. 238, Health and Family Welfare (C1) Department, dated 19.02.2015 and quash the same insofar as it limiting the monetary benefit from the date of issuance of order para 3 of G.O. No.238, Health and Family Welfare (C1) Department, dated 19.02.2015 and further direct the 1st respondent to pay the monetary benefit from the date of regularisation of the petitioner from 01.07.1994.

For Petitioner : Mr.S.Sidhartha Vishnu
for M/s. K.Elango

For Respondents : Mrs. Narmatha Sampath, AAG
for Mr.V.Kadhirvelu, Spl.GP

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O R D E R

The prayer sought for in the Writ Petition is to calling for the records of the 1st respondent relating to G.O.(D) No. 238, Health and Family Welfare (C1) Department, dated 19.02.2015 and quash the same insofar as it limiting the monetary benefit from the date of issuance of order para 3 of G.O. No.238, Health and

Family Welfare (C1) Department, dated 19.02.2015 and further direct the 1st respondent to pay the monetary benefit from the date of regularisation of the petitioner from 01.07.1994.

2. Heard both sides and perused the documents available on record.

3. The learned counsel for the petitioner has submitted that the writ petitioner was temporarily appointed as Luskar in a regular post on 01.07.1994 and he was subsequently reverted back to the post of Badhili on 15.12.1999. Challenging the said reversion order, the petitioner has filed O.A.8057/1999, which renumbered as W.P. No. 39844/2006. Pending writ petition, the services of 36 similarly placed persons were regularised vide G.O. (4D) No. 8, Health and Family Welfare, dated 31.07.2008. The petitioner was not granted relief in view of the pendency of the above writ petition. This Court by order dated 02.09.2009 directed the 1st respondent to extend the same benefit to the petitioner as per the said G.O on receipt of the representation from the petitioner. As directed by this Court the 1st respondent had passed G.O.(D) No. 238, Health and Family Welfare (C1) Department, dated 19.02.2015, wherein the orders were passed regularising the services w.e.f. 01.07.1994 and monetary benefits from 19.02.2015 i.e. from the date of issuance of the G.O.

4. It is the contention of the learned counsel for the petitioner that since all the 36 similarly placed person were granted monetary benefit from the date of said G.O. (4D) No. 8, Health and Family Welfare (F2) Department, dated 31.07.2008. Therefore, the petitioner herein cannot be deprived from enjoying the benefits on par with the similarly placed persons, in view of pendency of the writ petition.

5. On the other hand, the learned Additional Advocate General appearing for the respondents submitted similarly placed persons were granted monetary benefit in G.O. (4D) No. 8, Health and Family Welfare (F2) Department, dated 31.07.2008. Therefore, if the petitioner is eligible, he will be entitled for the monetary benefit as claimed by him on par with the similarly placed persons.

6. On perusal of records, it is seen that the writ petitioner has filed a writ petition in W.P. No. 39844 of 2006 and this Court by common order dated 02.09.2009, issued directions as follows;

"The petitioners are hereby directed to make representation to the state Government through proper channel seeking the extension of the benefit of G.O. (4D) No.8 Health and Family Welfare Department, dated 31.07.2008 granted to other employees similarly placed and if such a representation is sent within two weeks from the date of receipt of a copy of this order, the State Government shall consider the same in accordance with Law and in the light of G.O. (4D) No.8 Health and Family Welfare Department, dated 31.07.2008 and communicate the result to the petitioners. Till such time the State Government takes decision, the petitioners shall not be disturbed from the existing posts and the status quo shall continue. Since the respondents are only the workers, the Registry is directed to issue a copy of the order to the Secretary to Government of Tamil Nadu, Public Welfare and Family Welfare Department, Fort St.George, Chennai-09. The writ petitions are disposed of accordingly."

7. Pursuant to the said orders of this Court, the Government have passed G.O. Ms.No. 238, Health and Family Welfare Department, dated 19.02.2015 by regularising the services of the writ petitioner w.e.f. 01.07.1994 and granting monetary benefit from 19.12.2015 i.e. from the date of said G.O. But it is seen that the writ petitioner without making any representation to the 1st respondent seeking monetary benefit w.e.f 01.07.1994, has approached this Court for relief.

8. In view of the facts and circumstances of the case and on considering the submissions made by either counsel and also the fact that the writ petitioner has not made any representation to the 1st respondent for claiming his relief, this Court issues following directions;

- i. The writ petitioner shall make fresh representation to the 1st respondent in the light of the order of this Court dated 02.09.2009 and by placing all the relevant facts and materials in support of his claim within a period of two (2) weeks from the date of receipt of a copy of this Order.
- ii. On receipt of such representation from the writ petitioner, the 1st respondent shall consider the same on merits and in accordance with law and pass orders within a period of eight (8) weeks thereafter.

With the above directions, the writ petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

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Sub Assistant Registrar

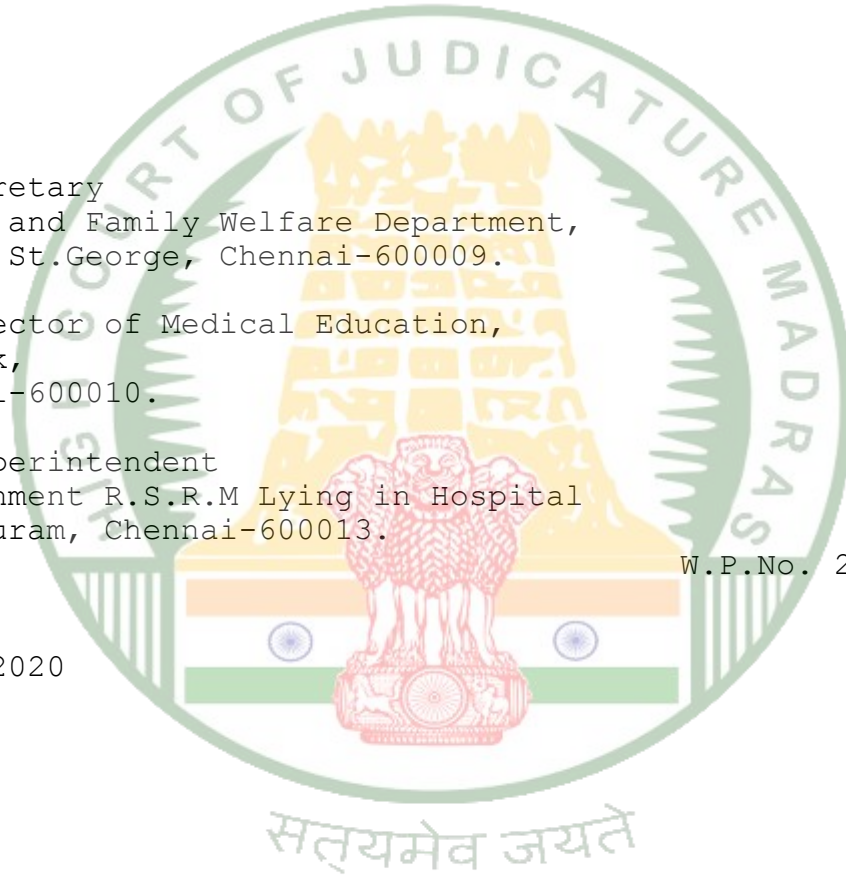
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To

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