

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2020

CORAM:

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

W.P.NO.22705 OF 2009

AND M.P.NO.1 OF 2009

S.K.Palani (Deceased)

2.K.P.Jaya

3.K.P.Premkumar

4.K.P.Karunakaran

5.K.P.Vadivukkarasi

6.K.P.Beemrao Ambedkar

7.K.P.Radhika

8.K.P.Brinda Devi

(P2 to P8 are substituted as LRs
of deceased P1 . S.K.Palani as per
order dated 02.08.2017 in
WMP No.32923 of 2016 in
W.P.No.22705 of 2009)

.... Petitioners

Vs.

1.The State of Tamil Nadu
Represented by its Secretary
Public Health Department
Fort St. George,
Chennai - 600 009.

2.The Director of Medical Education
Teynampet,
Chennai - 6.

3.The Dean
Kilpauk Medical College Hospital
Chennai - 10.

Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, (a) to direct the respondents 1 to 3 to pay the retirement benefits to the petitioner including DCRG, Pension etc; (b) to direct the respondents 1 to 3 to regularise the services of the petitioner from 06.06.1996 to 06.07.1999 the period spent on suspension and to pay the actual monetary benefits for which the petitioner is entitled; (c) to direct the respondents 1 to 3 to grant all service benefits to the petitioner like fixation of

pay, increment etc; and (d) to direct the respondents to pay interest at the rate of 12% per annum for the delayed payment.

For Petitioner : Mr.S.Jothivani

For Respondents: Mr.P.Chinnadurai
Additional Government Pleader

O R D E R

The original petitioner - S.K.Palani (deceased) was employed as Ambulance Driver under the respondent Department. On 06.06.1996 at about 19.00 hours, an accident involving the Ambulance Van bearing Registration No.TMJ 5988 is said to have taken place. After two days, Police registered a case under Section 304-A IPC read with Sections 184, 132(A) and (B) read with Section 177 of the Motor Vehicles Act. Ultimately, the criminal case ended in acquittal. The respondent Department initiated disciplinary proceedings against the deceased petitioner by issuing a charge memo dated 23.10.2000. The deceased petitioner submitted his explanation to the charge memo. However, no orders have been passed. In the meanwhile, the Motor Accidents Claims Tribunal has awarded compensation of Rs.1,10,088/- with 12% interest. It is also relevant to state that in view of the criminal case filed against the deceased petitioner, he was placed under suspension for the period between 07.06.1996 and 06.07.1999. After revocation of suspension in the year 1999, he was permitted to join duty and permitted to retire from service on attaining the age of superannuation with effect from 31.05.2008 without prejudice to the disciplinary proceedings pending against him.

2. From the counter affidavit, it is seen that till date, no orders have been passed in the disciplinary proceedings. The petitioner made a representation on 03.03.2009 to the third respondent seeking regularisation of his services with effect from 01.01.1994 and to regularise the suspension period between 07.06.1996 and 06.07.1999 and to pay the terminal benefits.

3. On perusing the materials available before this Court, it could be seen that the charge memo, for an incident that had taken place on 06.06.1996, was issued in 2000 about the accident and for not maintaining log book properly. Even though it is seen that such explanation was called for from the petitioner by the third respondent, no progress was shown till the date of his retirement. Even in the counter affidavit filed

by the third respondent dated 06.02.2015, the conclusion of disciplinary proceedings were not mentioned. In that event, the submission made by the learned counsel for the petitioner that disciplinary action was not pursued by the respondent, has to be accepted. In the event disciplinary proceedings are not pursued and no punishment order was imposed, it is not reasonable to withhold the payments due to the deceased petitioner. Viewing from other angle, the disciplinary proceeding for an accident that took place in the year 1996, stands vitiated on account of delay on the part of the respondent.

4. In view of the above, a direction is issued to the respondents to pass appropriate orders, with regard to regularisation of suspension period of the deceased petitioner between 07.06.1996 and 06.07.1999 and disburse appropriate dues to the petitioners, within a period of eight weeks from the date of receipt of a copy of this order.

5. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

TK

To

1.The Secretary
State of Tamil Nadu
Public Health Department
Fort St. George, Chennai - 600 009.

2.The Director of Medical Education
Teynampet, Chennai - 6.

3.The Dean
Kilpauk Medical College Hospital
Chennai - 10.

+1 cc to Mr.S.S.Jothivani Advocate sr13518
+1 cc to the Government Pleader Madras sr14232

W.P.NO.22705 OF 2009

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