IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2020

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

W.P.No.9194 of 2020

A.Mohanarangam ...Petitioner

-Vs-

1. The State of Tamil Nadu
   rep.by its Secretary to Government
   Finance (Pension) Department
   Secretariat, Chennai 600 009.

2. The Managing Director
   Tamil Nadu Co-operative Milk Producers
   Federation Ltd (TCMPF), Aavin Illam
   3A, Pasumpon Muthuramalinganar Salai
   Chennai 600 035. ...Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 2nd respondent to consider representation dated 26.06.2020 and pass appropriate orders in welfare of the pensioners / family pensioners to immediately implement in the light of the Government Order No.222 Finance (Pension) Department dated 30.06.2018 like the New Health Insurance Scheme or any other Health Insurance Scheme as deem fit may be for the welfare of the pensioners family pensioners of Tamil Nadu Co-operative Milk Producers Federation Ltd in order to lead a peaceful retire life, within the time stipulated.

For Petitioner : Mr.M.Silambarasan
For Respondents : Mr.Bala Ramesh,
Special Government Pleader

O R D E R

The prayer sought for in this writ petition is to direct the 2nd respondent to consider the petitioner representation dated 26.06.2020 and pass appropriate orders in welfare of the pensioners / family pensioners to immediately implement in the light of the Government Order No.222 Finance (Pension) Department dated 30.06.2018 like the New Health Insurance Scheme or any other Health Insurance Scheme as deem fit may be for the welfare of the pensioners family pensioners of Tamil Nadu Co-operative Milk Producers Federation Ltd in order to lead a peaceful retiral life, within the time stipulated.

2. The petitioner is a retired employee / pensioner of the second respondent ie., Tamil Nadu Co-operative Milk Producers Federation Ltd (TNCMPF) called as AAVIN.

3. Since he and people like him suffered for getting medical aid or medical assistance, the petitioner seems to have approached the second respondent to have a common Medical insurance scheme for the entire employees and pensioners of the second respondent and in this regard, he has given a representation on 26.06.2020 and since the representation has not been considered, he has filed this writ petition with the aforesaid prayer.

4. After hearing the parties, my predecessor directed the first respondent ie., the Government to file a Status Report as to the stand of the Government with regard to the aforesaid request made on behalf of the pensioners of the second respondent.

5. Pursuant to the said order passed by this Court, the first respondent has filed a Status Report on 29.10.2020 where, among other things, he has stated the following.

> "5. It is submitted that in pursuance of the above said order, this Status Report has been filed.
>
> 6. It is submitted that the pensioners / Family pensioners of local bodies, State Public Sector Undertakings, Statutory Bodies, State Government Universities and State Government Organizations / Institutions registered under the Tamil Nadu Societies Registration Act, 1975 (Tamil Nadu Act 27 of 1975) weren't availed the medical assistance under the New Health Insurance Scheme. Moreover it is proposed to pay the premium by Aavin & District Cooperative Milk Producers Union for the retired employees. Even for Government servants such concession is not extended, as the premium on the Health Insurance Scheme for retired employees are borne by the petitioners from out of their pension. While extending the coverage under Government Pensioners Scheme is totally ruled out, conceiving it as Independent Group Insurance Scheme for these pensioners out of Aavin or District Cooperative Milk Producers Union Fund is not acceptable. This will open up a floodgate for such demand even from Government retirees, which is financially not feasible.'

6. By relying upon this Status Report, the learned Special Government Pleader for the respondents would submit that, insofar as the Health Insurance Scheme being undertaken by the State of Tamil Nadu for the Tamil Nadu State Government employees as well as the pensioners of the State Government is concerned, in both the schemes, large number of Government servants as well as pensioners have made contributions from their salary or pension every month, as the case may be. That is why both the Schemes have become feasible and accordingly it has been implemented successfully in the State.

7. He further stated that, insofar as the employees or ex-employees of the second respondent organization is concerned, there is no such Scheme envisaged in this regard, as in the Health Insurance Scheme for the Government Employees as well as Pensioners, large number of pensioners of the second respondent, should come forward to make monthly contribution and then only the Scheme would be feasible and in this regard, since there is no response from the pensioners side in large numbers to make such contribution to have such an insurance scheme, the said Scheme is not feasible and that is why there is no such insurance scheme available for the employees and pensioners of the second respondent organization and that has been spelt out by the first respondent State Government in the aforesaid Status Report, he contended.

8. However, the learned counsel for the petitioner submitted that, not only the petitioner but several pensioners of the second respondent organization are ready and willing to make contribution reasonably every month from their pension to the second respondent organization towards the Medical Insurance Scheme as in the model of Scheme being implemented by the State Government for its employees and pensioners and when that being so, it cannot be a difficult task for the second respondent organization to envisage such a Medial Insurance Scheme for the pensioners of the second respondent also. Hence, such a Scheme can very well be explored with regard to the feasibility and once the second respondent organization comes forward to decide that it becomes feasible, there could be no further impediment for the second respondent to have such a Scheme for which the pensioners like the petitioner are ready and willing to contribute regularly.

9. I have considered the submissions made by the learned counsel for the parties and perused the materials placed on record.

10. As has been pointed out by the learned Special Government Pleader appearing for the respondents, unless majority of the pensioners like the petitioner come forward to

make the contribution, the second respondent may not be in a position to have such a Scheme as this kind of insurance scheme for the whole employees or pensioners of an organization has to be undertaken only with the help of the insurance companies, for which, first of all, the insurance company should come forward to have a contract with the employer as to the quantum of the contribution, number of members and minimum contribution and these modalities have to be worked out by the employer and the insurance company before which, the second respondent has to ensure that atleast 60% of the employees have come forward to make contribution every month towards this insurance scheme.

11. In the above context, this Court feels that in order to undertake such an exercise, the second respondent has to seek the willingness of the pensioners like the petitioner and in this context, if the second respondent is able to muster more than 60% of the pensioners for making their contribution every month from out of their monthly pension, certainly the second respondent can explore the possibility of envisaging such a Medical Insurance Scheme to the pensioners of the second respondent also.

12. In that view of the matter, this Court feels that, this Writ Petition can be disposed of with the following order.

13. That the second respondent shall issue a notice or notification in this regard to all the former employees / pensioners of the second respondent organization seeking their willingness to make routine contribution every month from their pension and on receipt of such willingness from majority of the pensioners, for which they can have a bench mark of at least 60%, then based on such a response the second respondent can have a deliberation with the insurance company to explore the possibility of envisaging a scheme for the benefit of the pensioners. Once it has become feasible, it is open to the second respondent that, the implementation of the Scheme ie., the Medical Insurance Scheme as that of the one being implemented for the State Government Employees / Pensioners, can be worked out and accordingly the same can very well be implemented.

14. Therefore, in order to explore the feasibility and possibility of the Medical Insurance Scheme as indicated above, the second respondent shall make endeavour by seeking the willingness of majority of the pensioners of the second respondent in this regard by taking six months period from the date of receipt of a copy of this order.

15. With this direction, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Secretary, Finance(Pension) Department,
   Secretariat, Chennai-600 009.

2. The Managing Director, Tamil Nadu Co-operative Milk
   Producers Federation Ltd., (TCMPF); Aavin Illam,
   3A, Pasumpon Muthuramalinganar Salai,
   Chennai-600 035.

+1cc to Mr.M.Silambarasan, Advocate, S.R.No.36221
+1cc to Mr.R.Balaramesh, Advocate, S.R.No.36284

W.P.No.9194 of 2020

CA(CO)
RV(14/12/2020)