

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.02.2020

Coram

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.9861 of 2017

N.Kumaran

... Petitioner

Vs.

1. The Director of Public Health and Preventive Medicine, Chennai 600 006.
2. The Deputy Director of Health Services, Uthagamandalam, Nilgiri District.
3. The Principal Accountant General (A & E), Chennai-18, Tamil Nadu.
4. The District Treasury Officer, Uthagamandalam, Nilgiri District. Respondents

Prayer: This writ petition has been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus or any other appropriate Writ or order or direction in the nature of Writ, directing the respondents to disburse Rs.1,23,536/- towards DCRG with interest as per Rules from 01.08.2006 till date of disbursement and another sum of Rs.2310/- towards arrears of pay with interest from 25.03.2014 onwards, within a time frame as deemed fit.

For Petitioner : Mr.M.Ravi

For Respondents : Mr.J.Ramesh, Addl. Gov. Pleader
(for R1, R2 and R4)

Mrs. J.Sreevidya
(for R3)

O R D E R

This petition has been filed for direction to the respondents to disburse Rs.1,23,536/- towards DCRG with interest as per Rules from 01.08.2006 till date of disbursement and another sum of Rs.2310/- towards arrears of pay with interest from 25.03.2014 onwards,

2. The case of the petitioner in nutshell is as follows:

The petitioner was appointed as Mazdoor in National Malaria Eradication Programme on consolidated monthly pay

basis and he put his service during the period 1968 to 1971. Subsequently, vide Government Order in G.O.Ms.No.2656 dated 23.10.1973, his service was regularised. Thereafter, the Government vide G.O.Ms.No.496 dated 29.10.1997 ordered for retrospective regularization of service, however ordered for monetary benefits only with effect from 29.07.1987. Therefore, the Director of Public Health and Preventive Medicine issued an order dated 16.07.1998 to all their subordinate officials to implement the above said order. In pursuant to the above said order, the Deputy Director of Health Service, Uthagamandalam passed an order in February 1999 granting retrospective regularization to the petitioner and others and monetary benefits from 29.07.1987. Subsequently, due to audit objects, the Deputy Director of Health Services, Uthagamandalam had withdrawn the said sanctioned pay and increments orders. Therefore, the petitioner and others filed O.A.No.3724/2003 before the Tamil Nadu Administrative Tribunal, which was transferred to this court and renumbered as W.P.No.39005 of 2005 and it was allowed on 15.10.2009 by this court.

2.1. In the meanwhile, the petitioner had retired from service on 30.04.2006 on superannuation. The petitioner is entitled to get the DCRG amount of Rs.1,23,536/- and a sum of Rs.2,310/- towards arrears of pay consequent on the recommendations of the 6th Pay Commission. Though that amount was sanctioned by the Accountant General vide Cheque No.082521 dated 11.07.2006, that amount was not disbursed to the petitioner. Hence, he filed this writ petition.

3. The 4th respondent filed counter affidavit, wherein it is stated that the Accountant General issued payment order for Rs.1,23,536/- towards Gratuity and the bill was presented before the District Treasury, Udhagamandalam and consequently, that amount was honoured vide cheque No.082521 dated 11.07.2006 in the name of the petitioner and it was sent to the Drawing Officer. However, no communication was received by the 4th respondent either from the petitioner or from the Drawing Officer regarding the whereabouts of the cheque. Therefore, without knowing the whereabouts of the cheque, this respondent cannot send a non-payment certificate to the Accountant General officer. If the 2nd respondent admit that the cheque for Rs.1,23,536/- is missing and submit a non-payment certificate obtained from the State Bank of India, Udhagamandalam, then the 3rd respondent will issue a fresh authorization for Gratuity.

4. The 2nd respondent filed counter, wherein, it is stated as follows.

i) The District Treasury Officer, Udhagamandalam had passed a bill towards DCRG and issued a cheque No.A082521 dated 11.07.2006 for Rs.1,23,536/-. However the cheque has been exhausted for non disbursement to the petitioner, due to the audit objection for excess recovery to be remitted into

Government Account by the petitioner. The above said cheque had been given to the District Treasury Officer, Udhagamandalam for revalidation vide letter dated 09.10.2006. In the meanwhile, the DCRG authorization has been revalidated by the Accountant General and a sum of Rs.2,310/- and a sum of Rs.1,23,536/- were credited to the account of the petitioner (Account No.1083496786) on 30.07.2018. Hence, they prayed for dismissal of the petition.

5. Heard the learned counsel appearing for the petitioner as well as the respondents. I have perused the materials on record.

6. The writ petitioner filed this petition seeking direction to the respondents to disburse a sum of Rs.1,23,536/- towards DCRG and a sum of Rs.2,310/- towards arrears of Pay along with interest from 01.08.2006 and 25.03.2014 respectively, as per the rules.

7. In the counter affidavit filed by the 2nd respondent, it is stated that the amounts i.e Rs.1,23,536/- towards DCRG and Rs.2,310/- towards arrears of pay, payable to the petitioner were credited to his account on 30.07.2018. However, there is no explanation for the delay in payment of the above said amounts. They had not also made any request to the 4th respondent for the whereabouts of the cheque. Therefore, the petitioner is entitled for interest at the rate of 8% per annum, as per Rule 45-A of the Tamilnadu Pension Rule. However, it is an admitted fact that the petitioner has not made any representation to the authority concerned seeking interest for the above said amounts.

8. Accordingly, this court is inclined to pass the following order.

i) The writ petitioner is directed to make representation seeking interest for Rs.1,23,536/- and Rs.2,310/- towards DCRG and arrears Pay, with all the particulars for the entitlement of the interest from the date of retirement till the amounts were settled to him, within a period of three weeks from the date of receipt of a copy of this order

ii) On such receipt of the representation from the petitioner, the respondents are directed to pass appropriate orders by awarding interest at the rate of 8% per annum to the petitioner, in the light of the Rule 45-A of the Tamil nadu Pension Rules.

9. With the above observations, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-V)

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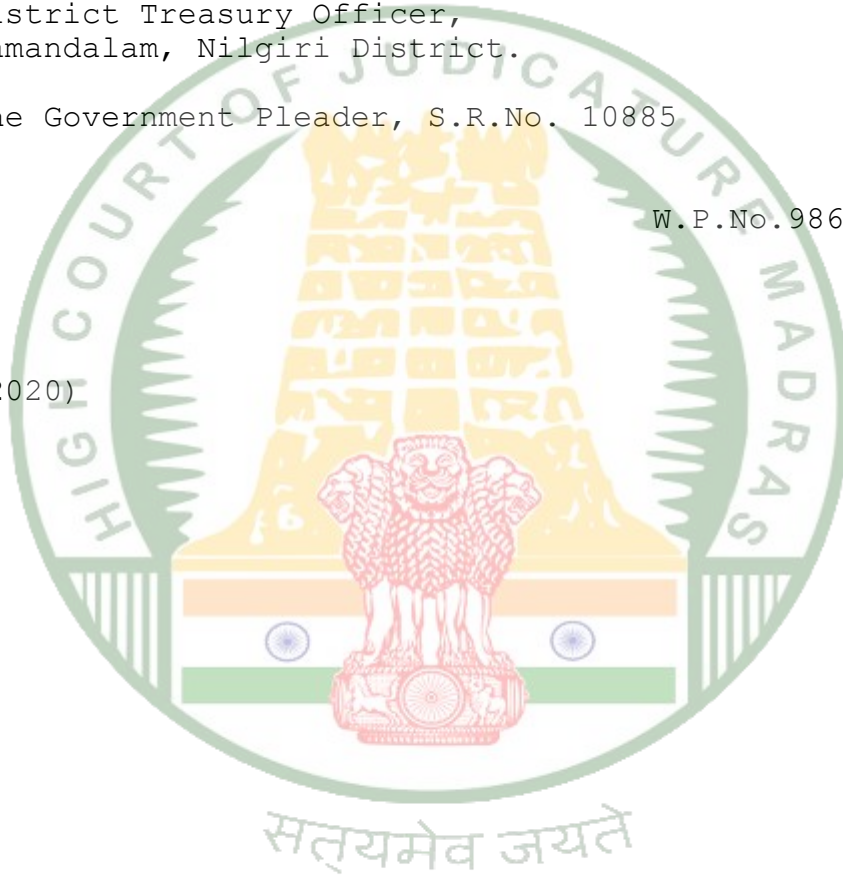
Sub Assistant Registrar

To

1. The Director of Public Health and
Preventive Medicine, Chennai 600 006.
 2. The Deputy Director of Health Services,
Uthagamandalam,
Nilgiri District.
 3. The Principal Accountant General (A & E),
Chennai-18, Tamil Nadu.
 4. The District Treasury Officer,
Uthagamandalam, Nilgiri District.
- +1cc to the Government Pleader, S.R.No. 10885

W.P.No.9861 of 2017

NRJK (CO)
GN (26/05/2020)



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