



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

D A T E D : 25.06.2021

C O R A M

The Hon'ble Mr. Justice SENTHILKUMAR RAMAMOORTHY

Writ Petition No.24223 of 2010
and
M.P.No.1 of 2010

V.Barnabas

...Petitioner

Vs.

1. State of Tamil Nadu
Rep. by its Secretary,
Fort St. George,
Chennai - 600 001.
2. The District Collector,
Vellore District,
Vellore.
3. The Director,
Bethesda Hospital,
Ambur,
Vellore District

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus to direct the Respondents to pay the monthly salary to the Petitioner from October 2009 till date.

For Petitioner : Ms.K.Abhirame for
Mr.V.Raghavachari

For Respondents : Mr.C.Harsha Raj for R1 and R2
Counsel for State

Mr.M.S.Palanisamy for R3



O R D E R

The present writ petition is filed for a writ of mandamus in respect of the alleged non payment of monthly salary to the Petitioner from October 2009.

2. The Petitioner states that he was appointed as a Staff Supervisor by the third Respondent Hospital on 10.08.1986. Thereafter, he was promoted from time to time as Medical Records Officer, Assistant General Superintendent, Deputy General Superintendent and Associate General Superintendent. According to the Petitioner, he was working as the acting General Superintendent as on the date of affirmation of the affidavit in support of the writ petition. The Petitioner further states that O.S.No.80 of 2009 had been filed by him against the third Respondent herein before the District Munsif Court, Ambur and that the said suit was disposed of by judgment and decree dated 11.08.2010 in view of the out-of-court settlement between the parties. The documents on record also reflect that a subsequent suit, O.S.No.139 of 2010, had been filed by the Petitioner before the Principal District Court, Ambur, seeking declarations in respect of the age of superannuation of the Petitioner and a letter dated 10.09.2010, and for consequential relief. The present writ petition is filed in order to claim salary for the period commencing from October 2009.

3. Learned counsel for the Petitioner contends that the writ petition is maintainable because the third Respondent performs public functions and is funded by the State. She further contends that O.S.No.80 of 2009 was withdrawn on account of the settlement arrived at between the Petitioner and the third Respondent, in terms of which it was agreed that the Petitioner would be provided employment from 11.08.2010 to 16.10.2014.

4. Learned counsel for the State contends that the Petitioner has filed two civil suits against the third Respondent and, in such circumstances, the Petitioner cannot invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution, especially to claim monetary relief.

5. Learned counsel for the third Respondent submits that the writ petition is not maintainable inasmuch as the third Respondent is admittedly a private hospital. In addition, it is submitted that the third Respondent is not functioning right now and is under the administrative control of the learned Administrator who is in-charge of all institutions under a particular Synod of the Indian Evangelical Lutheran Church.



6. Upon consideration of the submissions of the respective counsel and on examining the relevant records, it is evident that the third Respondent is a private hospital against which two civil suits were filed previously by the Petitioner. The documents on record do not disclose whether the third Respondent is funded by the State Government or not. In addition, the amount claimed towards salary arrears by the Petitioner from the third Respondent is unclear from the affidavit and the documents on record. When the above facts and circumstances are considered in totality, this is clearly not a fit case to exercise discretionary jurisdiction especially for the grant of monetary relief.

8. W.P.No.24223 of 2010 is disposed of on the above terms and without any order as to costs. Consequently, connected M.P. is closed.

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To

1. The Secretary,
State of Tamil Nadu
Fort St. George,
Chennai - 600 001.
2. The District Collector,
Vellore District,
Vellore.
3. The Director,
Bethesda Hospital,
Ambur,
Vellore District.

+1cc to M/S.V.Raghavachari, Counsel for the petitioner wide,
S.R.No.29588

+1cc to the Government Pleader for the Respondent wide,
S.R.No.29723

W.P.No.24223 of 2010

KJ(CO)
SU(27/07/2021)