

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 05.01.2021

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.25150 of 2005 and
W.P.M.P.No.27548 of 2005

Stanly Jones

... Petitioner

Vs.

1.The General Manager,
Bart Heavy Electricals Limited,
Ranipet, Vellore District.

2.The Senior Executive,
Bart Heavy Electricals Limited,
Ranipet,
Vellore District.

... Respondents

Prayer : Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order BAP:HC:2155648 dated 26.5.2004 passed by the 2nd respondent and quash the same and direct the 1st respondent to remit the amount deducted from the bonus and salary of the petitioner.

For Petitioner : No appearance

For Respondents : Mr.A.V.Arun

ORDER

The prayer sought for in this writ petition is to issue a writ of certiorarified mandamus calling for the records relating to the impugned order BAP:HC:2155648 dated 26.5.2004 passed by the second respondent and quash the same and direct the first respondent to remit the amount deducted from the bonus and salary of the petitioner.

2.The petitioner was working as Sub Inspector of Police in the respondent organisation.

3.While he was working, it seems that, the petitioner has availed some free medical facility from the respondent for the family members as well as the dependents and in this regard,

subsequently, the respondent company came to know that, the petitioner has availed the free medical facility extended by the respondent company to the parents of the petitioner. The said availment of free medical facility, according to the respondents, is against the extant Rule i.e. Medical Attendance Rules, under which the parents of the employee, who are getting less than Rs.675/- as monthly income alone, are to be considered as dependent, for whom the employee can avail free medical facilities and those who are having the earning of more than Rs.675/- per month would not be treated as dependents.

4. In this context, it is the case of the respondents that, the parents of the petitioner are the pensioners and they were receiving pension, during the relevant point of time, for a sum of Rs.1,000/- and more. Therefore, in this context, the ceiling of Rs.675/- though has been enhanced to Rs.1000/- in the year 1992 and Rs.1500/- in the year 2001, even then the parents of the petitioner are not coming under the purview of the category, where, the dependents who are getting monthly income less than the ceiling fixed in the extant Rule and therefore, they are not entitled to free medical treatment. Despite the said Rule position, the petitioner since have availed the free medical facilities for their parents, the respondent company after having found that the actual expenses incurred by the company towards the free medical facility extended to the parents of the petitioner was quantified as Rs.76,200/- and in order to recover the same, the respondents passed an order dated 26.05.2004. Challenging the same, the petitioner has moved this Court with the aforesaid prayer.

5. Heard Mr.A.V.Arun, learned standing counsel appearing for the respondents, who would rely upon Rule 2.4 of the Medical Attendance Rules, which reads thus:

"2.4 "Family" means the employee's wife or husband, as the case may be, children and step children (including legally adopted children) wholly dependent upon him/her and parents wholly dependent upon him/her and who reside with the employee. The parents will be considered as wholly dependent on an employee only if the monthly income of the parent or the combined monthly income of parents (if both parents are alive) is less than Rs.675."

6. By relying upon the said Rule, the learned standing counsel for the respondents would further submit that, the said ceiling of Rs.675/- as monthly income to avail the free medical facilities has subsequently been enhanced to Rs.1000/- in the year 1992 and further enhanced to Rs.1500/- in the year 2001. Therefore, during the relevant point of time, since the parents of the petitioner, who are the pensioners were receiving the

pension of more than Rs.1500/- and therefore, they were not entitled to free medical facility extended to the dependents and family members of the employees of the company. Therefore, the learned counsel would submit that, the impugned order was issued to recover the said amount.

7.However, the learned standing counsel appearing for the respondent would further submit that, subsequently, a warning letter was issued to the petitioner dated 07.07.2004, whereby the petitioner was warned not to avail any such availment of free medical treatment for his parents, who were getting the pension of Rs.1500/- and above and therefore, they cannot be treated as eligible for getting free medical treatment from the company and also required to recover the said amount.

8.However, since the petitioner attained the superannuation in the year 2015, before which a sum of Rs.13,500/- alone in two instalments were recovered from the petitioner, the respondents company permitted the petitioner to retire from service on superannuation and in this regard, an order has been passed on 24.03.2016. Therefore, the learned standing counsel appearing for the respondents would submit that, as of now the petitioner is not an employee of the respondent company and therefore, the further amount could not be recovered from him.

9.I have considered the said submission made by the learned standing counsel for the respondents and perused the materials placed before this Court.

10.The Rule is very clear which suggests that, only the parents or dependents who are getting a monthly income of less than Rs.650/- originally and subsequently, it was raised Rs.1000/- in the year 1992 and Rs.1500/- in the year 2001 alone would be entitled to get free medical treatment. Therefore, during the relevant point of time, the parents of the petitioner, who were receiving the higher pension than the fixed amount under the Rule, they were not eligible to get free treatment.

11.Therefore, the availment of free treatment for his parents by the petitioner was against the relevant Rule quoted above and therefore, there is every justification on the part of the respondents to issue the impugned order to recovery of the sum, which was incurred by the respondent company towards the medical treatment taken by the parents of the petitioner.

12.However, since the petitioner has superannuated in the year 2015 and he was permitted to retire from service peacefully by orders of the respondents dated 24.03.2016, this Court feels that, no further lien to recover the said amount, between the

petitioner and the respondent, is available and therefore, what has been recovered, as stated by the learned standing counsel, beyond which, no further amount can be recovered from the petitioner.

13. Therefore, taking into account the aforesaid development and recording the same, this Court is inclined to dispose of this writ petition without quashing the impugned order and also without permitting the respondent company to proceed further against the petitioner to recover any amount pursuant to the impugned order.

14. Accordingly, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Sgl
To

1. The General Manager,
Bart Heavy Electricals Limited,
Ranipet, Vellore District.
2. The Senior Executive,
Bart Heavy Electricals Limited,
Ranipet,
Vellore District.

+1cc to M/s.A.V.Arun, Advocate Sr.298

W.P.No.25150 of 2005

ajs[col]
srg 05/02/2021

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