



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.06.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P (MD) No.19177 of 2020

M.Ramasubbu

... Petitioner

vs.

1.The State of Tamil Nadu,
Rep. by its Additional Chief Secretary,
Tourism, Culture and Religious Endowments
Department,
Secretariat, Fort St. George,
Chennai - 600 009.

2.The Commissioner,
Hindu Religious and Charitable Endowments
Department,
Chennai - 600 034.

3.The Director of Pension,
No.259, Anna Salai,
Block No.3, 2nd Floor,
DMS Compound,
Teynampet,
Chennai - 600 006.

4.The Joint Director of Pension,
No.259, Anna Salai,
Block No.3, 2nd Floor,
DMS Compound,
Teynampet,
Chennai - 600 006.

5.The Treasury Officer,
District Treasury Office,
Tirunelveli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings issued by the fifth respondent in Oo.Mu.9378/2020/No.1, dated .11.2020 signed on 02.12.2020 and quash the same as illegal and consequently direct the respondents 2 and 3 herein to sanction the



medical reimbursement of Rs.1,49,565.86 along with interest by considering the application dated 11.08.2009 submitted by the writ petitioner within a stipulated time fixed by this Court.

For Petitioner : Mr.V.R.Shanmuganathan
for Mr.A.L.Kannan

For Respondents : Mr.P.Subbaraj
Government Advocate

ORDER

The petitioner has filed the present Writ Petition, to quash the impugned proceedings issued by the fifth respondent, dated . 11.2020 signed on 02.12.2020 and to direct the respondents 2 and 3 to sanction the medical reimbursement of Rs.1,49,565.86/- along with interest, by considering his application, dated 11.08.2009.

2.According to the petitioner, while he was working as Executive Officer Grade - II at Esakkiamman Temple (East), Muppanadhal, disciplinary proceedings were initiated against him and subsequently charge-memo was issued. Criminal complaint was also lodged for the very same allegations. Pending disciplinary and criminal proceedings, the petitioner attained the age of superannuation on 31.08.2008. By the proceedings, dated 27.08.2008 issued by the second respondent, the petitioner was retained in service. During that time, he underwent Bye-pass surgery on 06.07.2009 at AIIMS Hospital, Cochin. The petitioner spent a sum of Rs.1,49,565/- towards medical expenses and his service is covered under Medical Reimbursement Scheme introduced by the Government. The petitioner submitted an application on 11.08.2009 to the second respondent, seeking reimbursement of Rs.1,49,565/- along with medical bills and documents issued by Network Hospital.

3.Further, according to the petitioner, when he enquired in the office of the second respondent with regard to medical reimbursement of medical expenses spent by him, he was informed that the same will be taken up for consideration, only after conclusion of disciplinary proceedings. The disciplinary proceedings initiated against the petitioner was concluded and the second respondent passed an order on 08.01.2015. Challenging the said proceedings, the petitioner filed a Writ Petition in W.P(MD) No.20087 of 2015 and the same is pending. Even after conclusion of the disciplinary proceedings, the second respondent did not take necessary action for reimbursement of medical expenses. The petitioner gave comprehensive representations, dated 14.05.2018, 20.11.2019 and 25.02.2020 to the first respondent, who in turn forwarded the same to the second respondent. The second respondent, vide order, dated 14.09.2020, directed the petitioner to approach the third respondent. On receipt of the same, the

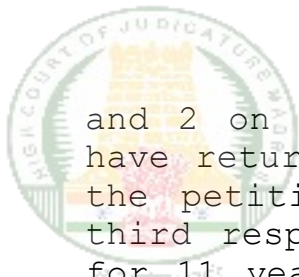


petitioner made an application on 23.09.2020 to the third respondent. The fifth respondent, by impugned proceedings, dated 02.12.2020, returned the application and other documents of the petitioner stating that the third respondent has returned the application as time barred. Challenging the said order, the petitioner has come out with the present Writ Petition.

4.The learned counsel appearing for the petitioner submitted that immediately after undergoing surgery on 06.07.2009, on spending a sum of Rs.1,49,565/-, the petitioner submitted an application before the second respondent on 11.08.2009 itself for reimbursement. The second respondent did not take any action on the said application on the alleged ground that disciplinary proceeding is pending against the petitioner. The reimbursement of medical expenses is nothing to do with the disciplinary proceedings. There is no time limit for claiming reimbursement of medical expenses. In any event, the reason given in the impugned order for returning the application is arbitrary, erroneous and illegal. The respondents 3 and 5 failed to consider the documents submitted by the petitioner along with his application. Further, the learned counsel appearing for the petitioner referred to the earlier application of the petitioner, dated 11.08.2009, which contains office seal of the second respondent for having received the application with enclosure. The petitioner made his application immediately on 11.08.2009 itself and therefore, the impugned order passed by the fifth respondent, returning the application is not sustainable and prayed for allowing the Writ Petition.

5.Mr.P.Subbaraj, learned Government Advocate appearing for the respondents submitted that the petitioner underwent surgery on 06.07.2009, but he made application only in the year 2020 ie., after 11 years of the surgery. Due to the long delay, the application made by the petitioner was rightly returned as time barred and prayed for dismissal of the Writ Petition.

6.From the materials available on record, it is seen that the petitioner underwent surgery on 06.07.2009 at AIIMS Hospital, Cochin. According to the petitioner, he spent a sum of Rs.1,49,565/- as medical expenses. The petitioner being the member of Medical Reimbursement Scheme is entitled to reimbursement of the said amount. The petitioner made an application on 11.08.2009 to the second respondent. It is not in dispute that the petitioner made an application for reimbursement of Rs.1,49,565/- on 11.08.2009 itself to the second respondent. In the typed set of papers filed by the petitioner, it is seen that in the proceedings of the first respondent returning the application of the petitioner to the second respondent and the application, dated 11.08.2009 was found in the said proceedings. The respondents 1



and 2 on receipt of the application, dated 11.08.2009, ought to have returned the same immediately or within reasonable time, but the petitioner was instructed to submit his application to the third respondent. The respondents 1 and 2 slept over the matter for 11 years and only on 02.12.2020, returned the application of the petitioner along with the documents to the petitioner. The second respondent returned the application and documents only by proceedings, dated 14.09.2020 and immediately on 23.09.2020, the petitioner made an application with all documents to the third respondent. In view of the fact that the petitioner made application on 11.08.2009 itself, the respondents 3 and 5 erred in returning the application and other enclosures of the petitioner on the ground of delay. The reason given in the impugned order is invalid and illegal.

7.For the above reasons, the impugned order, dated 02.12.2020, passed by the fifth respondent is set aside and the petitioner is directed to re-submit the application along with necessary documents to the third respondent within a period of three weeks from the date of receipt of a copy of this order. On receipt of the said application, the third respondent is directed to consider the same and sanction the amount spent by the petitioner within a period of two weeks thereafter.

8.With the above directions, this Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ps

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

<https://hcservices.ecourts.gov.in/hcservices/>



To

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+1 CC to SPL GP (SR-20021[F] dated 23/06/2021)

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