

**THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**  
**WRIT PETITION (TR) Nos.5922, 5923, 5924 & 6001 OF 2017**  
**AND**  
**WRIT PETITION No.1300 OF 2020**

**COMMON ORDER:**

All these writ petitions are being disposed of by way of this common order as the issue raised in all these writ petitions is one and the same.

2. Heard Sri T. Sudhakar Reddy, counsel for the petitioners, and Government Pleader for Services – I appearing for the respondents.

3. It has been contended by the petitioners that they are retired Medical Officers and they are appointed on contract basis to discharge the duties of Medical Officers. The respondents have also entered into separate agreements with the petitioners. In the said agreements, it is made very clear that the retired Medical Officers appointed on contract basis would be entitled for 100% gross salary attached to the post of Civil Assistant Surgeon, as mentioned in the appointment orders. The petitioners further stated that they have been discharging their duties to the best satisfaction of their superiors and everyone concerned. While so, the 2<sup>nd</sup> respondent issued memo, dated 09.01.2015, giving clarification that the retired Medical Officers do not come under the purview of G.O.Ms.No.25 dated 25.04.2011 and their remuneration has to be fixed as per G.O.Ms.No.3 dated 12.01.2011 only i.e., not exceeding minimum time scale of pay, and thereby, the Unit Officers were instructed to ensure whether the same was being paid or not and excess amount drawn, if any, to be

recovered immediately. Thereupon, the 3<sup>rd</sup> respondent issued proceedings dated 16.01.2016 and 01.02.2016, directing the petitioners to remit the excess salary paid to them from the date of joining to May, 2015. Subsequently, the respondent authorities issued recovery proceedings dated 03.05.2016 in respect of petitioners in W.P (TR) Nos.5922, 5923 and 5924 of 2017.

Questioning the memo dated 09.01.2015, W.P.No.1300 of 2020 is filed, whereas questioning the proceedings dated 16.01.2016 and the recovery proceedings dated 03.05.2016, the petitioners in WP (TR) Nos.5922, 5923 and 5924 of 2017 filed O.As before the then Andhra Pradesh Administrative Tribunal, Hyderabad and the same were numbered as O.A.Nos.1834, 1835 and 1836 of 2016, respectively. Similarly, challenging the proceedings dated 01.02.2016, the petitioner in WP (TR) No.6001 of 2017 filed O.A before the Tribunal and the same was numbered as O.A.No.2201 of 2016. However, on abolition of the Tribunal, the said O.As are transferred to this Court and re-numbered as the present writ petitions.

4. Counsel for the petitioners contended that the petitioners were appointed as Contract Medical Officers in terms of G.O.Ms.No.42 dated 16.05.2006, and as per the appointment orders as well as the agreements entered with the petitioners, the petitioners are entitled for 100% gross salary, but the respondents have denied the same to the petitioners and recovered excess amount paid to be petitioners. Therefore, counsel contended that appropriate orders be passed in

these writ petitions directing the respondents to refund the excess amount which was recovered from the petitioners.

5. Government Pleader appearing for the respondents had contended that since the petitioners were appointed after issuance of G.O.Ms.No.3 dated 12.01.2011, it has to be understood that they were appointed in terms of G.O.Ms.No.3 dated 12.01.2011, and the respondents have rightly issued the impugned proceedings and rightly recovered the excess amount paid to the petitioners, therefore, there are no merits and these writ petitions are liable to be dismissed.

6. This Court, having considered the rival submissions made by learned counsel for respective parties, is of the considered view that the petitioners were appointed in terms of G.O.Ms.No.42 dated 16.05.2006. In the appointment orders and also in the agreements entered with the petitioners, it is specifically mentioned that the petitioners would be paid 100% gross salary. Further, G.O.Ms.No.3 dated 12.01.2011 has no application in the instant cases, as the said G.O deals with enhancement of remuneration of the personnel working on contract/outsourcing basis in respect of categories such as Junior Assistants, Typists, Data Entry Operators etc., and that in respect of categories other than those mentioned therein, it is observed that their remuneration to be fixed not exceeding the minimum of the time scale attached to the equivalent category of the relevant post in the Revised Scales of Pay-2010. In the instant cases, the remuneration of the petitioners is fixed in terms of their appointment orders, and also it is made clear in the agreements entered with the petitioners that

they would be paid 100% gross salary. Therefore, the impugned memo dated 09.01.2015 and the proceedings dated 16.01.2016, 01.02.2016 and 03.05.2016 issued by the respondents, are contrary to law and, accordingly, the same are set aside. The respondents are directed to refund the amount, which was recovered from the petitioners as excess, to the petitioners within a reasonable period of time, preferably within three months from the date of receipt of a copy of this order.

7. Accordingly, these writ petitions are disposed of. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

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**ABHINAND KUMAR SHAVILI, J**

27.12.2021  
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