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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2022

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THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

W.P. No.14560 of 2018

and

WMP Nos. 17191 & 17192 of 2018

K. Ethirajalu ... Petitioner

Vs

1. State of Tamilnadu,
rep. by Additional Chief Secretary to Government,
Home (Courts-VIA) Department,
Secretariat, Chennai 600 009.

2. Additional Director General of Police,
Crime Branch CID,
Chennai 600 008

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus to call for the records relating to the impugned order in Letter (D) No.296 dated 27.03.2018 Home (Cts VIA) Department, Secretariat , Chennai, passed by the first respondent and the consequential impugned order made in C.No.C5/607/ 6941/2007 dated 27.03.2018 passed by the 2nd respondent and quash the same and consequently direct the respondents to pay the arrears fee payable to the petitioner to a sum of Rs.10,72,500/- with interest.

For petitioner ... Mr.G. Ethirajulu

For respondents ... Mr. S. Silambannan,
AAG-II,
assisted by

Mr. M.R.Gokulakrishnan,
Additional Government Pleader

ORDER

This writ petition has been filed challenging the order passed by the first respondent rejecting the payment of fees payable to the petitioner.



2. According to the petitioner, he was appointed as a Special Public Prosecutor to conduct the cases under the Prevention of Corruption Act in C.C.Nos. 60 to 70 of 2001 on the file of the Special Court for Prevention of Corruption Act, vide G.O.(D) No.85, Home (Cts.VIA) Department, dated : 04.02.2013. In all the cases, trial has been conducted and judgment has been reserved and now all the matters are posted on 29.04.2022. He is appearing in all the criminal cases from the year 2016 to till date. According to the petitioner, right from the date of appointment, i.e., 01.08.2016, legal fees have not been paid, despite submitting his bills regularly. Now, the respondents rejected the bills amounting to Rs.10,72,500/- stating that he is only eligible for a sum of Rs.97,500/-. Now, challenging the said order, the present writ petition has been filed.

3. The respondents filed a counter affidavit stating that, as per the order of appointment, the petitioner is entitled for a sum of Rs.15,000/- as Study Fees, which is payable in various instalments and Daily Fees of Rs.2,500/- per day for effective hearing dates and the petitioner filed bills for each number for 39 effective hearings. After receipt of the bills, a clarification was sought for from the Government, wherein, it is clarified that the petitioner is eligible only for Rs.25,000/- per day for effective hearings and based on the clarification, the impugned order has been passed.

4. Mr. G. Ethirajulu, the learned counsel for the petitioner submitted that, totally, there are 11 criminal cases, viz., C.C.Nos.60 of 2011 to 70 of 2011. Even though the crime number is same in all the 11 cases, separate final report has been filed and separate C.C number had been assigned, separate trial had also been conducted in all the cases simultaneously and the petitioner has been regularly appearing in all the cases. However, the respondents have treated all the cases as single case and refused to pay the fees for each C.C.

5. Mr.S.Silambannan, learned Additional Advocate General-II, appearing for the respondents submitted that, even though there are 11 separate criminal cases, all the cases arise out of common First Information Report and a simultaneous trial has also been conducted and hence, the petitioner is only entitled for a sum of Rs.2,500/- for effective hearing for all the cases. In such circumstances, considering all those circumstances, the impugned order has been passed, which need not be interfered with by this Court.



6. This Court considered the rival submissions made by both sides and carefully perused the materials available on record.

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7. From a perusal of the records, it is seen that the petitioner was appointed as a Special Public Prosecutor to conduct trial in 11 criminal cases in C.C.No.60 of 2011 to 70 of 2011. Even though all the cases arise out of common First Information Report, 11 separate final reports have been filed as against different accused.

8. The learned counsel for the petitioner submitted a copy of the bills, which is duly certified by the concerned Court, from which, it could be seen that separate trial had been conducted in all the cases simultaneously.

9. The petitioner has also filed a statement regarding the effective and non-effective hearings. As per the statement filed by the petitioner, he is entitled to get a sum of Rs.19,90,125/- up to February 2022. The bills submitted by the petitioner was duly attested by the concerned Court, the copy of which has been given to the learned Additional Advocate General for verification. The learned Additional Advocate General, on verification, submitted that the bills submitted by the petitioner are correct. However, he still contended that all the cases should be treated as a single case and it cannot be considered as different cases and he is entitled only for a single fee, and not for separate fee for all the 11 cases.

10. However, considering the fact that no joint trial had been conducted in all the cases and only simultaneous trial has been conducted, it cannot be held that it is a single case and the petitioner is entitled for fees separately for the said 11 cases.

11. Considering those circumstances, the order passed by the first and second respondents stating that all the cases should be treated as a single case cannot be acceptable and hence, the impugned orders passed by both the respondents are set aside and the respondents are directed to pay a sum of Rs.19,90,125/- (Rupees Nineteen Lakhs Ninety Thousand One Hundred and twenty Five Only) for the period up to February 2022, to the petitioner, within a period of twelve weeks (12) from the date of receipt of a copy of this order.



12. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

mrp

To

1. The Additional Chief Secretary to Government,
The State of Tamilnadu,
Home (Courts-VIA) Department,
Secretariat, Chennai 600 009.

2. Additional Director General of Police,
Crime Branch CID,
Chennai 600 008.

+3cc to M/s.G.Ethirajulu, Advocate Sr.22176
+1cc to the Government Pleader Sr.22769

W.P. No.14560 of 2018

sr-II[co]
srg 02/05/2022