



W.A.No.1027 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

W.A.No.1027 of 2016 and

CMP No.13444 of 2016

R. Selvaraju

... Appellant

Vs.

1.The Senior Civil Surgeon,
Government Primary Health Centre,
Medavakkam, Chennai 600 100.

2. The Deputy Director of Health Services,
No.23, Jones Salai, Saidapet,
Chennai 600 015.

3. The Director, Public Health and Preventive Medicine,
DMS Compound, Anna Salai, Teynampet,
Chennai 600 006.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent against the order passed in W.P.No.4001 of 2016 dated 04.02.2016 on the file of this Court.



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For Appellant : Ms.C.Uma

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For Respondents : Mr.V.Manoharan, Addl.Govt. Pleader

J U D G M E N T

(Judgment of the Court was delivered by D.KRISHNAKUMAR, J.)

Challenging the order dated 04.02.2016 passed by this Court in W.P.No.4001 of 2016, this Intra Court Appeal has been filed.

2. The brief facts, which leading to file the present appeal are as follows.

The appellant is the writ petitioner in the above writ petition. He was appointed as Selection Grade basic Health Worker w.e.f. 11.7.1981 and thereafter, promoted as Health Supervisor, re-designated as Health Inspector Grade-I w.e.f. 21.09.1995. As per the order of the first respondent dated 22.12.2022, the writ petitioner was paid a sum of Rs.1,54,668/- as arrears of salary. Thereafter, the second respondent issued order dated 08.05.2003 stating that the petitioner was paid excess arrears of salary and the hence, the same has to be remitted by the first respondent. Since the first respondent did not comply the above order, the second respondent issued



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proceedings dated 27.09.2004 that, by mistake, excess arrears were paid and directed the first respondent to send reply within 3 days. Subsequently, the third respondent issued modified pay fixation order dated 10.04.2006 and Rs.1,00,000/- was recovered from the DCRG amount of the petitioner. Aggrieved by the same, the writ petitioner filed several representations, to refund the amount recovered from him. But it was not considered by the respondents. Hence, he filed the writ petition. This Court, vide order dated 04.02.2016, has dismissed the writ petition and it was impugned in the present writ appeal.

3. Heard the learned counsel for the appellant and the learned Additional Government Pleader and perused the materials available on record.

4. It is an admitted fact that, the petitioner was paid arrears of salary of Rs.1,54,668/-, as per the order of the first respondent. Thereafter, the second respondent issued recovery order dated 08.05.2003 to recover the arrears of salary paid to the writ petitioner. Further the second respondent



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issued proceedings dated 27.09.2004 stating that arrears of salary was paid to the writ petitioner by mistake and it has to be remitted. Thereafter, the third respondent issued modified fixation order dated 10.04.2006 and a sum of Rs.1,00,000/- was recovered from DCRG amount of the writ petitioner. Though the writ petitioner had filed the writ petition, narrating all the facts to declare the above recovery and modified pay fixation orders as arbitrary, he has not challenged those recovery order dated 8.05.2003; proceedings dated 27.09.2004; and modified pay fixation order dated 10.04.2006. Without challenging the above impugned orders, the writ petitioner cannot seek declaration relief as they are illegal and arbitrary. Further, as against the orders passed in the years 2003, 2004 and 2006, the writ petitioner has filed the writ petition only in the year 2016. Apart from that, the appellant has not raised any valuable grounds in the Appeal to consider the Appeal and only alleged that the impugned Pay fixation order and the recovery orders are arbitrary and the amounts recovered from the writ petitioner is against the principles of natural justice. Therefore, the Writ Court has rightly dismissed the writ petition as " the petitioner neither challenged the order dated 08.05.2003 of the second respondent, nor another proceedings



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dated 27.09.2004, nor modified pay fixation order dated 10.04.2006 and he approached the Court belatedly with a huge and unexplained delay of ten long years, that too without any proper explanation for the said delay ". The reasons assigned in the order for dismissing the writ petition does not warrant any interference by this Court. Therefore, we are of the view that the writ appeal is liable to be dismissed as it has no merits.

6. Accordingly, the Writ Appeal is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

(D.K.K.J.) (K.G.T.J.)
10.04.2023

Index: Yes/No
Internet: Yes/No
mst

To

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