IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2023

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.3997 of 2017

V. Gajendran .. Petitioner

Vs.

1.The District Collector,
Thiruvallur District.

2.The Special Commissioner and
Commissioner of Treasuries and Accounts,
Chennai – 15. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to proceedings in Na.Ka.718/2015/R.3 dated 28.09.2016 of the 1st respondent and to quash the same and consequently issue a direction to the 1st respondent to grant 12% compound interest to the petitioner towards the medical reimbursement to a sum of Rs.1,00,000/- for the treatment underwent by the petitioner, with retrospective effect from the date of application.

For Petitioner .. Mr. S. Santhan

For Respondents .. Mr. T. K. Saravanan, Govt. Advocate

ORDER

This Writ Petition has been filed in the nature of Certiorarified Mandamus seeking records relating to proceedings in Na.Ka.718/2015/R.3 dated 28.09.2016 of the 1st respondent, the District Collector, Tiruvallur District and set aside the same and consequentially issue a direction to the 1st respondent to grant 12% compound interest on the sum of Rs.1,00,000/- which had been sanctioned to the petitioner as medical reimbursement for the treatment underwent by the petitioner.

2.It is the claim of the petitioner that there had been a delay payment of Rs.1,00,000/- and therefore, compound interest will have to be paid for the said period of delay. The petitioner had earlier filed W.P.No.2467 of 2015 and by an order dated 16.03.2015, once again the issue of delay in payment of medical reimbursement of Rs.1,00,000/- was tested by this Court. The order passed therein is extracted hereunder for better clarity:

"The delay on the part of the 4th respondent to pay a sum of Rs.1,00,000/- to the petitioner towards medical reimbursement pursuant to the order passed by the District Collector, Tiruvallur made him to file this writ petition.

2. The petitioner is a regular subscriber to Tamil Nadu Government Employees Health Fund Scheme. The petitioner has undergone treatment at Sree Ramachandra Hospital from 28.10.2002 to 30.10.2002 on account of cardiac problem. The petitioner made a claim for reimbursement. The second respondent processed the said claim and passed an order dated 03.05.2003 and called upon the 4th respondent to pay a sum of Rs.1,00,000/-. It is the grievance of the petitioner that notwithstanding the said order, action was not taken by the 4th respondent to pay the amount. The petitioner is therefore before this Court.

3. The 4th respondent is directed to comply with the order dated 03.05.2003 on the file of second respondent by making payment of a sum of Rs.1,00,000/- within a period of two weeks from the date of receipt or production of a copy of this order.

4. The learned counsel for the petitioner seeks a further direction to the 4th respondent to pay interest. The petitioner is *given liberty to make a representation to the second respondent for payment of interest in view of the delay caused in the matter by the 4th respondent, notwithstanding the order dated 03.05.2003. In case, any such representation is given, the same shall be considered and disposed of by the second respondent taking into account the non-compliance of his own order by the 4th respondent. Such exercise shall be completed within a period of one month from the date of receipt of representation.*

5. The Writ petition is disposed of with the above direction. No costs."

3.An examination of the facts would reveal that the petitioner had joined the service of 1st respondent in the Revenue Department on 12.03.1984 as Village Administrative Officer at Perungavoor-I, Poneri Taluk, Chengalpatu District. He retired from service on attaining the age of superannuation on 31.10.2012. While working at Kolur-I, Ponneri Taluk, Tiruvallur District, he had necessity to be admitted to Sree Ramachandra Hospital, Chennai on 28.10.2002 and he was discharged on 30.10.2002. He was advised to undergo Angio Plastic and Stunt Surgery at "Madras Medical Mission". He was admitted as an in-patient on 20.11.2002 and an operation was performed and he was discharged on 23.11.2002. He also claimed that subsequently, regular medical check up was done and the total medical expenditure have incurred by him was Rs.1,44,924/-. Since he claimed to be a regular subscriber to the Tamil Nadu Government Employees Health Scheme, he claimed reimbursement of above mentioned expenditure incurred due to the surgery. The hospitals were accredited. But unfortunately, the nature of operation done on the petitioner was not accredited.

4.The 1st respondent had forwarded a proposal on 03.05.2003 in RC.R3/085991/2003 and placed a request on the 2nd respondent, Special Commissioner and Commissioner of Treasuries and Accounts at Chennai to issue a crossed demand draft for a sum of Rs.1,00,000/- towards the medical treatment underwent by the petitioner herein. At that particular point of time, the necessary operation or treatment, which would be covered for reimbursement were given in G.O.Ms.No.400 Finance (Salaries) Department dated 29.08.2000. The surgery which was underwent by the petitioner was not one of the surgeries, which was mentioned as not eligible for the medical reimbursement under G.O.Ms.No.400 Finance (Salaries) Department dated 29.08.2000.

5. Subsequently, the Government had passed G.O.Ms.No.556 Finance (Salaries) dated 08.11.2004. In this particular Government order, G.O.Ms.No.556, the surgery which was underwent by the petitioner was included. It is therefore pointed out on behalf of the respondents that a doubt was raised by the respondents whether that Government order would have prospective effect or retrospective effect. It is contended that it had prospective effect and though the surgery done for the petitioner, was covered, since the date of surgery was prior to the introduction of the Government Order, the petitioner would not be eligible for medical reimbursement.

6.It was under those circumstances that the petitioner had filed W.P.No.2467 of 2015 referred *supra* and the order extracted above came to be passed. In the order, a direction is given to pay a sum of Rs.1,00,000/- to the petitioner towards medical reimbursement. Therefore, this wiped out the question of retrospective effect or prospective effect. The sum ordered to be paid by the aforementioned order was Rs.1,00,000/- and that had been sanctioned. That particular order of the High Court in the aforementioned writ petition was passed on 16.03.2015.

7.It is the contention of the respondents that the petitioner gave an application and approached the respondents for actual sanction of the amount only on 25.05.2016.

8.The petitioner then filed a contempt petition seeking to put into effect the aforementioned order of the High Court. It had been stated that steps were thereafter taken to reimburse the amount towards medical expenses incurred by the petitioner and the petitioner had been paid with the said sum of Rs.1,00,000/-.

9.By this writ petition, the petitioner seeks compound interest for according to him delayed payment.

10.The first issue taken by the learned counsel for the petitioner is the order of the 1st respondent dated 03.05.2003 wherein, the 1st respondent had placed a request on the 2nd respondent to sanction a sum of Rs.1,00,000/- towards medical reimbursement of the petitioner herein. But on that particular date, the prevailing order was G.O.Ms.No.400 Finance

(Salaries) Department dated 29.08.2000, wherein the particular surgery, which was underwent by the petitioner was not stipulated as one of the surgeries for which medical reimbursement could be granted. Therefore, even though the 1st respondent had given proposal on 03.05.2003, the said proposal could not be put into effect by the 2nd respondent, since if it was so done, it would have been a direct violation of G.O.Ms.No.400 Finance (Salaries) Department dated 29.08.2000.

11.Thereafter, the second Government Order namely, G.O.Ms.No.556 Finance (Salaries) dated 08.11.2004 was passed. There was an issue of interpretation of that particular Government Order, whether it would apply retrospectively or prospectively. If it is to be applied with retrospective effect, then all the surgeries, which had been additionally listed and which were underwent by various Government servants, would have to be considered for payment of medical reimbursement. The issue was in a nebulous stage and the respondents were not able to take a decision on its effect.

12.In the meanwhile, the petitioner filed the aforementioned writ petition and a direction was given by this Court to pay a sum of Rs.1,00,000/-. Without addressing the issue whether the Government Order would be applicable retrospective and prospective as a special case, since there was an order of High Court, the respondents complied with the order and paid the amount. The delay according to the respondents in the payment of such award was the date of representation of the petitioner, which was on 25.05.2016, even though the High Court had passed an order on 16.03.2015.

13.The petitioner was given liberty to make a representation to the respondents by the aforementioned order in W.P.No.2467 of 2015 dated 16.03.2015. Therefore, the representation was the first step, which had to be initiated by the petitioner, before the respondents could take any step in complying with the said order. That was for payment of interest. The payment of the principal sum of Rs.1,00,000/- would go hand in hand with the claim of the interest. The petitioner had however, for reasons best known to him, made a representation only on 25.05.2016.

14. It had been stated that the petitioner is not eligible for interest in the impugned order.

15.The reason for delay cannot attributed to the respondents. In the first place, when G.O.Ms.No.400 Finance (Salaries) Department dated 29.08.2000 was in effect, the surgery incurred by the petitioner was not covered. Thereafter, G.O.Ms.No.556 Finance (Salaries) dated 08.11.2004 came into play. Though the surgery was covered, a doubt was raised by the respondents whether retrospective effect could be given, since the operation of the petitioner was prior to introduction of G.O.Ms.No.556 Finance (Salaries) dated 08.11.2004.

16.Then the petitioner filed the aforementioned writ petition and a direction was given to the respondents to pay a sum of Rs.1,00,000/- and the same had been paid to the petitioner. He should be satisfied with it, cannot expect compound interest as a right.

17.The order of the High Court has been complied with by the respondents. There could be administrative delay in sanctioning of the amount. The petitioner has been granted the amount even while the respondents ran the risk of there being numberable claims if G.O.Ms.556 had to be applied retrospectively. As a special case, the petitioner has been granted the said sum of Rs.1,00,000/- consequent to the order of the High Court. The petitioner should rest with that. Even in the earlier writ petition, the petitioner had sought for simple interest and in the present writ petition, the petitioner has sought for compound interest. I am not inclined to grant any relief to the petitioner.

18.With the above observations, this Writ Petition stands dismissed. No costs.

13.07.2023

Index:Yes/No
Internet:Yes/No
Neutral Citation: Yes/No
Speaking order: Yes/No
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To

1. The District Collector,
   Thiruvallur District.

2. The Special Commissioner and
   Commissioner of Treasuries and Accounts,
   Chennai – 15.

C.V.KARTHIKEYAN, J.

smv

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