



W.P(MD)No.6746 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.04.2023

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THE HONOURABLE **MR.JUSTICE G.R.SWAMINATHAN**

W.P(MD)No.6746 of 2023

S.Syed Mohideen

... Petitioner

Vs.

1.The Principle Accountant General (A & E),
DMS Complex, Teynampet,
Chennai-600 018.

2.The Director,
Medical & Rural Health Service,
Chennai-600 006.

3.The Director of Medical Education,
Kilpauk, Chennai-600 010.

4.The Dean,
Government Medical College Hospital,
Pudukkottai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to disburse the Death cum Retirement Gratuity benefits with interest by considering the representations of the petitioner dated 04.09.2018.

For Petitioner : Mr.G.Prabhu Rajadurai



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For R-1 : Mrs.P.Mahalakshmi
Standing Counsel
For R-2 to R-4 : Mr.G.Suriyananth
Additional Government Pleader

ORDER

Heard the learned Counsel on either side.

2. The writ petitioner herein joined the Department of Assistant Surgeon. He became Chief Civil Surgeon and was posted at Government Medical College Hospital, Pudukottai. He reached superannuation on 31.10.2017 vide G.O.(Rt)No.824 (Health and Family Welfare (A1) Departement) dated 31.10.2017 was allowed to retire. The grievance of the petitioner is that his Death Cum Retirement Gratuity benefits have not been settled till date. That led to the filing of this writ petition.

3. The fourth respondent has filed counter affidavit. Paragraph Nos.5, 6 and 7 of the said counter affidavit reads as follows:

“5. I respectfully submit in that audit para the amount will be recovered from the petitioner and others Rs.63,42,560/- (Rupees Sixty Three Lakh Forty Two Thousand Five Hundred and Sixty Only) received from Office of the Medical and Rural Health Services, Chennai vide Ref.No.2858/OHSS/2/2014 Dated: 15.08.2018.



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6. I respectfully submit that the petitioner has submitted only the file mentioned in that special audit para and has not responded about para 1 to 32 mentioned in audit para as on date.

7. I respectfully submit that in the event if the petitioner has replied para 1 to 32 of the special audit and same will be submitted to the Director of Medical Education, Chennai and after the para is cleared the petitioner will get the DCRG as soon as possible.”

4. The learned Additional Government Pleader appearing for the respondents 2 to 4 took me through the averments set out in the counter affidavit and contended that only after the audit objections are cleared, it is possible to disburse the DCRG benefits to the petitioner herein.

5. The learned Standing Counsel appearing for the first respondent submitted that they have not received any request for making endorsement for recovery from the writ petitioner.

6. I have carefully considered the rival contentions and went through the materials available on record.

7. Two facts are beyond dispute. The petitioner was allowed to retire from service. His retirement was not subject to any qualification or condition.



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The Government had not issued any memorandum, informing the petitioner that his pay was erroneously fixed and that there is proposal to recover. No such formal proceeding after complying with due process of law was ever issued. More than five years have elapsed from the date of retirement of the petitioner. The counter affidavit is also delightfully vague. The nature of audit objection has also not been clearly spelt out. I fail to understand as to how the petitioner can respond to a vague audit objection. In view of the sheer lapse of time, I have to necessarily direct the respondents to release the petitioner's DCRG benefits. The writ petition itself was filed only in March 2023 and it is being disposed of within a month. If the respondents pay the DCRG benefits to the petitioner within 12 weeks from the date of receipt of a copy of this order it shall not carry any interest. If the respondents fail to pay the DCRG benefits to the petitioner within twelve weeks from the date of receipt of a copy of this order, it shall carry interest from the date of the petitioner retirement. I place on record, the submission of the petitioner made through his Counsel that he is not having any Government loan liability or any other dues.

8. Accordingly, this Writ Petition stands allowed. There shall be no order as to costs.

27.04.2023



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NCC : Yes / No
Index : Yes / No
Internet : Yes / No
BTR

To

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G.R.SWAMINATHAN, J.

BTR

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