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W.P.No.32046 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2024

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.32046 of 2012

R.Jambukeswari

... Petitioner

Vs.

1.The Secretary to Government,
Finance (Pension) Department,
Secretariat,
Fort St.George,
Chennai – 600 009.

2.The Director of Pension,
259, Anna Salai,
3rd Block, 2nd Floor,
Teynampet,
Chennai – 600 006.

3.The District Treasury Officer,
Huzur Treasury,
Collectorate,
Tiruchi.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records of the third respondent pertaining to his letter in N.Dis.3966/M2/2011 dated 15.02.2012 rejecting the claim of the petitioner for medical reimbursement, to quash it as illegal, arbitrary and against the Article 21 of the Constitution of India and consequently to direct the respondents 1 to 3 to settle the claim for



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reimbursement of Rs.29,027/- (Rupees Twenty-Nine Thousand and Twenty-Seven only) incurred by the petitioner towards surgery and treatment of cataract.

For Petitioner : Mr.R.Rajendran

For Respondents : Mr.D.Gopal,
Government Advocate

ORDER

This writ petition has been filed by the petitioner to call for the records of the third respondent pertaining to his letter in N.Dis.3966/M2/2011 dated 15.02.2012 rejecting the claim of the petitioner for medical reimbursement, to quash it as illegal, arbitrary and against the Article 21 of the Constitution of India and consequently to direct the respondents 1 to 3 to settle the claim for reimbursement of Rs.29,027/- (Rupees Twenty-Nine Thousand and Twenty-Seven only) incurred by the petitioner towards surgery and treatment of cataract.

2. Learned counsel for the petitioner submitted that the petitioner is a wife of late Mr.R.Rajagopalan, Deputy Collector (Retired) and as per the pension pay order A102057, she is drawing a monthly pension from Huzur Treasury, Collectorate, Tiruchi. This being so, the petitioner has underwent a



cataract surgery on 22.12.2011 and spent a sum of Rs.29,027/- (Rupees Twenty-Nine Thousand and Twenty Seven only) towards surgery and treatment. In order to claim reimbursement for the aforesaid surgery under G.O.No.475, Finance (Pension) Department, dated 30.09.2009, the petitioner has submitted a petition dated 06.02.2012, before the third respondent along with a relevant/supportive documents viz., pension pay order in No:A102057, advance stamped receipt, discharge/case summary and Final Bill with all cash receipt in original and the said petition has been received by the third respondent on 14.02.2012.

3. Learned counsel for the petitioner further submitted that the third respondent in his letter in N.Dis.3966/M2 dated 15.02.2012 rejected the petitioner's claim and returned the petition with remarks that the petitioner was not a member of the Tamil Nadu Government Pensioners' Health Fund Scheme and the time limit to become a member in the Health Fund Scheme had been expired. Moreover, the third respondent has not brought to the knowledge of the petitioner that G.O.Ms.No.475, Finance (Pension) Department, dated 30.09.2009 enable the petitioner to become a member of Tamil Nadu Government Pensioner's Health Fund Scheme and further in



G.O.Ms.No.84 dated 17.03.2010 specifically instructs that the third respondent should ensure that the Government order extending the benefits of Health Fund Scheme to the Family Pensioners reaches all Family Pensioners. For better appreciation, the relevant paragraph of the G.O.Ms.No.84 dated 17.03.2010 is extracted hereunder:

“4.Pension Pay Officer/District Treasury Officers/Sub Treasury Officer and Branch Managers of all Public Sector Banks are requested to display this order in the Notice Board of their office and ensure that this order reaches all Family Pensioners drawing Family Pension through their office.”

The aforesaid instruction has not been followed by the third respondent and the petitioner is not aware about the same. Hence, the petitioner made a representation before the second respondent to accept her claim for reimbursement and that was also rejected on 13.07.2017 vide letter No.L.Dis.18075/2012/E3. Challenging the same, the petitioner has submitted a representation before the first respondent on 09.07.2012, however, no action was taken. Hence, this writ petition.

4. Learned Government Advocate appearing for the respondents has filed a counter affidavit dated 08.07.2013. For better appreciation, the relevant paragraphs are extracted hereunder:



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“4. It is further submitted that after the expiry of three months period given in the said G.O.Ms.No.475/Finance (Pension) Department/dated 30.09.2009, various Pensioners Association have represented to extend the time limit in the said Government Order, as the three months period of time was inadequate for enrolment of all family pensioners. The Government sympathetically considered the representation and issued orders in G.O.Ms.No.84/ Finance (Pension) Department dated 17.03.2010 (copy enclosed) extending time limit for enrolment up to 30.06.2010. Further in order to give wide publicity among the family pensioners about the extension of Tamil Nadu Government Pensioners Health Fund Scheme 1995 to its family pensioners w.e.f. 01.09.2009, the Pension Disbursing Authorities viz., Pension Pay Office, Chennai – 6, District Treasury Officer, Sub Treasury Officer and Manager of Public Sector Bank were instructed to display the said Government Order in their office Notice Board and they have duly exhibited the said Government Order in their notice board.

5. It is also submitted that Government have clarified in its Lr.No.72289/ Finance (Pension) Department/ dated 24.02.2011 that the question of extending time limit further beyond 30.06.2010 does not arise since enough advertisements have also been made in this regard.”

5. Heard the learned counsel on either side and perused the materials



available on record.

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6. The facts of the case is not in dispute. The petitioner is a wife of late Mr.R.Rajagopalan, Deputy Collector (Retired) and getting a monthly pension. This being so, the petitioner has applied for claiming reimbursement for a sum of Rs.29,027/- for the cataract surgery underwent by her on 22.12.2011 under G.O.Ms.No.475, Finance (Pension) Department, dated 30.09.2009 and the same was rejected by the third respondent on 15.02.2012 vide letter in N.Dis.3966/M2, against which, the petitioner has come forward with the present writ petition.

7. On perusal of the counter affidavit filed by the Government Advocate appearing for the respondents and G.O.Ms.No.475. Finance (Pension) Department dated 30.09.2009, it is clear and evident that the petitioner has not enrolled her name to avail assistance under the Tamil Nadu Government Pensioners' Health Fund Scheme, 1995 with effect from 01.09.2009, within a period of three months from the date of Government Order. At this juncture it is pertinent to extract paragraph 3 (v) of the G.O.Ms.No.475, Finance (Pension) Department, dated 30.09.2009:

“3. Accordingly, the Government issues the following orders:-



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(v) If no such option is received from the existing family pensions on or before the completion of three months from the date of issue of the order, it shall be construed that they are not willing to enroll themselves under the Tamil Nadu Government Pensioners' Health Fund Scheme”.

8. Moreover, the Government has issued another G.O.Ms.No.84, Finance (Pension) Department, dated 17.03.2010 by extending the time limit for enrollment upto 30.06.2010, since various pensioners' Associations have represented to the Government that the three months period upto 31.12.2009 was not adequate for enrollment of all family pensioners and subsequently, the said order has also duly exhibited in the notice boards of the Pension Disbursing Authorities. For better appreciation, the relevant paragraphs of aforesaid G.O.Ms.No.84, Finance Department, dated 17.03.2010 is extracted hereunder:

“2. Various Pensioners Associations have represented to the Government that the three months period upto 31.12.2009 was not adequate since wide publicity was not given among the Family Pensioners regarding the above orders and hence they could not exercise their option before 31.12.2009 and requested to extend the time limit for exercising their option for a further period of three months.

3. The Government, after careful consideration, has decided to accept the request of the Association. Accordingly



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Government direct that the time limit for exercising option by the Family Pensioners to enroll themselves under the Tamil Nadu Government Pensioner's Health Fund Scheme 1995 be extended upto 30.06.2010.

4. Pension Pay Officer/District Treasury Officers/Sub Treasury Officers and Branch Managers of all Public Sector Banks are requested to display this order in the Notice Board of their office and ensure that this order reaches all Family Pensioners drawing Family Pension through their office.”

9. In the case on hand, it is clear and evident that the petitioner has not exercised her option to enroll her name as member under the Tamil Nadu Government Pensioners' Health Fund Scheme within the time limit specified by the Government. Though, the Government has extended the Tamil Nadu Government Pensioners' Health Fund Scheme to the Family Pensioners beyond 01.09.2009 and gave enough time to exercise their option to enroll into the scheme up to 30.06.2010, the petitioner has failed to enroll as member under the said scheme.

10. Hence, this writ petition is devoid of merits and the same is dismissed. No costs. Consequently, connected miscellaneous petition is also closed.



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Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No

To:

- 1.The Secretary to Government,
Finance (Pension) Department,
Secretariat,
Fort St.George,
Chennai – 600 009.
- 2.The Director of Pension,
259, Anna Salai,
3rd Block, 2nd Floor,
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