



W.P.(MD)No.18032 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.08.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.18032 of 2024 &
W.M.P.(MD)No.18032 of 2024

J.Ravichandran

... Petitioner

vs.

- 1.The State of Tamilnadu,
Rep. by its Secretary to Government,
Health and Family Welfare Department,
Secretariat, Chennai - 6.
- 2.The Director,
Public Health and Preventive Medicine Department,
DMS Complex, Teynampet,
Chennai - 6.
- 3.The Director of Medicine Education,
Directorate of Medical Education,
Chennai - 10.
- 4.The Accountant General (A & E)
361, Anna Salai,
Teynampet,
Chennai - 18.
- 5.The Deputy Director,
Medical Services,
Karur - 639 001.

... Respondents



W.P.(MD)No.18032 of 2024

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 relating to the impugned order issued by the fourth respondent in P14/11422564/4/R1422564 dated 22.04.2024 and all the consequential orders, quash the same and consequently direct the respondents to restore the scale of pay of the petitioner with salary benefits from the date of initial appointment.

For Petitioner : Mr.F.Deepak

For Respondents : Mr.J.Ashok
Additional Government Pleader
for R1 to R3, R5

Mrs.S.Mahalakshmi
Standing Counsel for R4

ORDER

Heard Mr.F.Deepak, learned counsel appearing for the petitioner, Mr.J.Ashok, learned Additional Government Pleader appearing for the respondents 1 to 3 and 5 and Mrs.S.Mahalakshmi, learned Standing Counsel appearing for the fourth respondent.

2. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.



W.P.(MD)No.18032 of 2024

WEB COPY

3. The petitioner has filed this writ petition challenging the order dated 22.04.2024, by which his pay has been re-fixed on the finding that excess payment has been paid to him.

4. Mr.F.Deepak, learned counsel appearing for the petitioner submitted that no recovery can be made against the petitioner on the ground of excess payment made that too after a long period of 26 years.

5. Perusal of the impugned order shows that it is only a communication sent to the Deputy Director of Medical Services, Karur under whom the petitioner was working, to re-present the pension proposal of the petitioner on the ground that excess payment has been made to him. It is for the fifth respondent to re-present the proposal either by accepting the objection of the fourth respondent or to give explanation as to how the pay fixation already made is correct in respect of the petitioner. The petitioner has rushed to the Court in a prematured stage without even waiting to see how the fifth respondent responds to the communication made by the fourth respondent.



W.P.(MD)No.18032 of 2024

WEB COPY

6. It is made clear that for any reasons, if the fifth respondent deems it fit that the pay has to be revised in respect of the petitioner, then the fifth respondent shall not over look the settled position of law with regard to the impermissible recovery in the case of *State of Punjab and Others Vs. Rafiq Masih (White Washer) and others* reported in 2015 (4) SCC 334, wherein it is stated that recoveries by the employers is impermissible after a period of five years or after retirement.

7. The petitioner has not suppressed any material facts in order to induce the employer to make excess payment to him. Hence, if any re-fixation of pay is deemed to be necessarily done for the purpose of pension, the same shall be done only after issuing a show cause notice to the petitioner enabling him to make his submissions.

8. In light of the above observations, this writ petition is **disposed of** with a direction to the employer of the petitioner to re-submit the proposal after deciding the petitioner's pay-fixation as expeditiously



W.P.(MD)No.18032 of 2024

as possible. No costs. Consequently, connected miscellaneous petition is closed.

01.08.2024

NCC: Yes/No

Index : Yes/No

Speaking/Non-Speaking order

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To

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W.P.(MD)No.18032 of 2024

R.N.MANJULA, J.

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W.P.(MD)No.18032 of 2024

01.08.2024