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W.A.No.484 of 2025



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2025

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.A.No.484 of 2025
and
C.M.P.No.4189 of 2025**

1.The Director of Medical & Rural Health Services,
DMS Campus, Teynampet,
Chennai - 600 006.

2.The Dean,
Rajiv Gandhi Government General Hospital,
Poonamallee High Road,
Chennai -600 009.

3.The Deputy Director of Health Services,
Saidapet at Chengalpet. ...

Appellants

versus

K.Gopinathan,
S/o.J.Kaliyaperumal,
F-3, Sri Sai Flats,
Sri Sai Avenue,
Nemilicherry Main Road,
Nemilicherry, Chromepet,
Chennai - 600 044. ...

Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, to set aside
the order passed in W.P.No.25585 of 2021 dated 19.02.2024.



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W.A.No.484 of 2019



For Appellants : Mr.M.Bindran
Additional Government Pleader
For Respondent : Mr.R.Prem Narayan

JUDGMENT

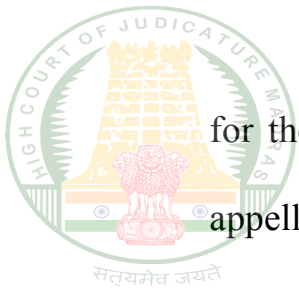
(Judgment of the Court was made by **R.SUBRAMANIAN, J.**)

Aggrieved by the direction issued by the writ court to pay the wages of the respondent for the period from 29.05.2018 to 14.05.2019, the Department has come up with this appeal.

2. The respondent, who was working as staff nurse on contract basis in Rajiv Gandhi Government General Hospital, Chennai, was transferred to Government Primary Health Centre, Uppatti, Nilgiris, by order dated 28.05.2018.

3. This order was challenged and the writ court granted interim order of stay, directing the appellants to engage the respondent in the place where he was working. However, the appellants did not obey the interim order and only after the contempt was filed, they allowed the respondent to join at Rajiv Gandhi Government General Hospital, Chennai.

4. When the writ petition was disposed of finally on 25.04.2019, this Court had observed that the back wages can be considered to be paid



for the period from 02.08.2018 to 16.04.2019. Despite the said order, the appellants had denied the back wages on the ground of “no work no pay”.

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5. The writ court found that this denial of back wages for the period from 02.08.2018 to 16.04.2019 is unfair and unjust inasmuch as the respondent was not able to work during that period due to the delay in implementation of the order of this Court and not due to his own fault. On the said finding, the writ court directed the payment of salary for the period from 29.05.2018 to 14.05.2019. This order is questioned before this Court in this appeal.

6. Mr.M.Bindran, learned Additional Government Pleader appearing for the appellants would vehemently contend that, since the respondent had not worked and he is only a contract worker, the direction for payment of salary is not justified.

7. Contending contra, Mr.R.Prem Narayan, learned counsel appearing for the respondent would submit that the respondent could not work because of the non-implementation of the orders of stay and therefore,



the same cannot be put against him. The appellants cannot take advantage of their own failure in implementing the orders of this Court.

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8. Admittedly, the order of transfer was stayed by this Court and it was not implemented and only after the contempt petition came to be filed, the order was implemented in May, 2019. Therefore, the disability of the respondent to work was created by the conduct of the appellants.

9. Hence, as rightly observed by the writ court that the appellants cannot be allowed to take advantage of their own failure and deny salary to the respondent.

10. The Writ Appeal therefore fails and it is accordingly *dismissed*. The appellants are directed to pay the wages as directed by the writ court within a period of eight (8) weeks from today. No costs. Consequently, the connected Miscellaneous Petition is closed.

(R.S.M., J.) (G.A.M., J.)
21.02.2025

Speaking order

Index : No

Neutral Citation : No

Note : Upload Order Copy on 25.02.2025

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W.A.No.484 of 2017



K.Gopinathan,
S/o.J.Kaliyaperumal,
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