



W.P.No.14221 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 02.07.2025

CORAM :

THE HON'BLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.14221 of 2023

K.Ethirajalu

.. Petitioner

v.

1. State of Tamil Nadu

rep.by its Principal Secretary to Government

Home (Cts.VIA) Department

Secretariat, Chennai 600 009

2. The Superintendent of Police

O/o Superintendent of Police

Q Branch, CID, Mylapore

Chennai 600 004

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order made in C.No.G1/2412/244/2022 dated 07.05.2022 by the 2nd respondent and quash the same and consequently direct the respondents to pay a sum of Rs.7,50,000/- being the amount payable to the petitioner on the basis of G.O.Ms.No.36 Home (Courts.VI A) Department dated 12.01.2011 with arrears and interest thereon at the rate of 12% p.a.

For Petitioner :: Mr.G.Ethirajulu



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For Respondents :: Mr.P.Ganesan
Additional Government Pleader for
R1
Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)
for R2

ORDER

This writ petition has been filed challenging the impugned proceedings of the second respondent dated 07.05.2022 and for a consequential direction to the respondents to pay a sum of Rs.7,50,000/-, being the amount payable to the petitioner based on G.O.Ms.No.36 dated 12.01.2011 with interest at the rate of 12% per annum.

2. The case of the petitioner is that he was appointed as a Special Public Prosecutor to conduct TADA cases in TADA Court, Chennai through G.O.(D)No.923, Home (Courts.VIA) Department dated 15.09.2011. He was functioning in that position till March, 2023.

3. As per G.O.(D)No.923 dated 15.09.2011, the Government directed

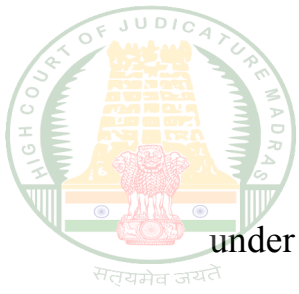


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payment of Study Fee of a total sum of Rs.15,000/- and a Daily Fee of Rs.2,500/- for every effective hearing to the petitioner. Insofar as the payment of these amounts are concerned, there is no dispute and the petitioner has admitted that these amounts were settled from time to time.

4. The petitioner is making a claim of Rs.6,000/- per mensem relying upon G.O.Ms.No.36, Home (Courts.VIA) Department dated 12.01.2011. According to the petitioner, this Government Order was issued even before the appointment of the petitioner under G.O.(D)No.923 dated 15.09.2011 and hence, apart from the Study Fee and Daily Fee, the petitioner is also entitled for the payment of a sum of Rs.6,000/- per mensem under this Government Order.

5. The petitioner submitted a representation dated 07.03.2022 for settlement of this amount and the second respondent through proceedings dated 07.05.2022, rejected the claim made by the petitioner on the ground that only those payments which were mentioned in G.O.(D)No.923 are payable to the petitioner and the petitioner is not entitled for any payment



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under G.O.Ms.No.36 dated 12.01.2011. Aggrieved by the same, the present writ petition has been filed before this Court.

6. The second respondent has filed a counter affidavit. In the counter affidavit, the second respondent has taken a stand that as per the Government Order under which the petitioner was appointed as the Special Public Prosecutor for conducting cases in the TADA Court, there was no mention regarding G.O.Ms.No.36 dated 12.01.2011 and hence the petitioner cannot make any claim under this Government Order. Whatever payments were directed to be paid to the petitioner under the relevant G.O., were settled from time to time. That apart, the subsequent Government Order in G.O.(D)No.292, Home (Courts.VIA) Department dated 13.03.2023, which was relied upon by the petitioner to point out that the Special Public Prosecutor, who was appointed under this G.O., was paid as per G.O.Ms.No.36, will not enure in favour of the petitioner, since there is no reference to that G.O.Ms.No.36 in the Government Order through which the petitioner was appointed as a Special Public Prosecutor. Accordingly, the second respondent has sought for dismissal of this writ petition.



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WEB COPY 7. The learned Additional Government Pleader appearing on behalf of the first respondent submitted that the first respondent adopts the stand taken by the second respondent in the counter affidavit.

8. Heard the learned counsels appearing for the parties.

9. The short issue that arises for consideration in the present writ petition is as to whether the petitioner is entitled for payment of a sum of Rs.6,000/- per mensem under G.O.Ms.No.36 dated 12.01.2011.

10. The petitioner was appointed as a Special Public Prosecutor by the Government by issuing G.O.(D)No.923 dated 15.09.2011 and the fees to which the petitioner is entitled to, are indicated in para 3(a) & (b) of the Government Order, which is extracted hereunder:-

“3. The Law Officer is eligible to draw the pleader's fees as indicated below:

(a) Study Fee: A total fee of Rs.15,000/- (Rupees



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Fifteen thousand only) to be paid in three equal installments each of Rs.5,000/- (Rupees Five thousand only) as follows:

- (i) The first installment to be paid after the charge sheet is filed. If the charge sheet has already been filed, the Special Public Prosecutor will not be entitled for this installment.
 - (ii) The second installment to be paid after the charges are framed and at the time of prosecution and
 - (iii) The third installment to be paid at the time of final arguments.
- (b) Daily Fee: A fee of Rs.2,500/- (Rupees Two thousand and five hundred only) per day of effective hearing.
- (i.e. Per day of effective hearing of more than three hours (i.e.) if the Counsels are engaged in Court Hall for more than 3 hours, they are entitled for the fee of Rs.2,500/- and if the Counsels are engaged in the Court Hall for the period of 3 hours and less, they are entitled for 50% of the fee of Rs.2,500/-)."

11. Insofar as the fees mentioned in the said Government Order, the



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same have been remitted to the petitioner from time to time and there is no complaint from the petitioner regarding any arrears of fees under this Government Order.

12. The relevant Government Order, under which the petitioner is claiming for payment of a sum of Rs.6,000/- per mensem, is G.O.Ms.No.36 dated 12.01.2011. The relevant portion is scanned and extracted hereunder:-



Abstract

Law Officers - Courts - Subordinate to High Court - Fee payable to Law Officers (other than money suits) - Fee structure - Revision - Orders - Issued.

Home (Courts-VTA) Department

G.O. (Ms) No. 36 Dated: 12.1.2011

Read

1. G.O.(Ms) NO.4054, Home dated 18.11.1961
2. G.O.(Ms) No.664, Home dated 20.3.1985
3. G.O.(Ms) No.373, Home dated 9.3.1995
4. G.O.(Ms) No.754, Home dated 12.6.1998

Read also:-

5. From the Principal Secretary and Commissioner of Land Administration Letter No.M3/26085/09 dated 9.2.2010.

ORDER:-

The fee structure of Law Officers attached to the Courts subordinate to the High Court (both in Civil and Criminal side) was lastly revised during the year 1995 & 1999.

2. In G.O.(Ms) No1615, Home dated 31.10.2007, orders were issued for constitution of a committee to go into the fee structure of Law Officers attached to the Courts Subordinate to High Court. The Committee has examined the fee structure of the Law Officers attached to both Civil and Criminal courts Subordinate to the High Court and also recommended the new fee structure of the Law Officers attached to both Civil and Criminal Courts Subordinate to the High Court.

3.The committee submitted its report and based on the recommendations of the Committee, the Government revise the fee structure applicable to Law Officers attached to the Courts Subordinate to the High Court as follows:-

Sl.No	Details of Cases	Existing Fee	Revised Fee
1.	The Fees for the works Done in Criminal Cases	a) Rs.135/- for each case for a period of 3 hours and more occupied in court	Rs.400 for each case for a period of 3 hours and more occupied in Court
	(1) Fees for conducting cases in District Sessions Court and Special Court	b) Rs.45/- subject to a maximum of Rs.60/- for less than three hours occupied in court	b)Rs.200/-subject to a maximum of Rs.300/- for less than three hours occupied in Court.
	(2) Appeals/ Revision Petitions	Rs.90/- per case irrespective of number of days taken for hearing	Rs.180 per case irrespective number of days taken for hearing



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	(3) Miscellaneous application/Bail applications	Rs.90/- per case irrespective of number of days taken for hearing.	Rs.180 per case irrespective number of days taken for hearing
2	MAXIMUM DAILY FEE	Rs.360/-	Rs.1000/-
3	RETAINER FEE: (1) Government Pleader	Rs.1000/- per mensem	Rs.6000/- per mensem
	(2) Special Government Pleader	Rs.1000/- per mensem	Rs.6000/- per mensem
	(3) Additional Government Pleader	Rs.1000/- per mensem	Rs.5500/- per mensem
	(4) Public Prosecutor	Rs.1000/- per mensem	Rs.6000/- per mensem
	(5) Special Public Prosecutor	Rs.1000/- per mensem	Rs.6000/- per mensem
	(6) Additional Public Prosecutor	Rs.1000/- per mensem	Rs.6000/- per mensem
	(7) Pleader doing Government work	Rs.750/- per mensem	Rs.5000/- per mensem

13. A careful reading of the above Government Order shows that the fee structure payable to the Law Officers attached to the Courts subordinate to the High Court, both on Civil and Criminal sides, was revised under this Government Order. Insofar as the Special Public Prosecutor is concerned, a Retainer Fee of Rs.6,000/- per mensem was fixed under this Government Order. This Government Order is applicable to all the Law Officers



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irrespective of the Courts to which they are attached, subject to the condition that such Courts are subordinate to the High Court. Such revision has been made applicable both on the Civil and Criminal sides.

14. The defence that has been taken on the side of the respondents is that there is no reference about G.O.Ms.No.36 dated 12.01.2011 in G.O.(D)No.923 dated 15.09.2011, under which the petitioner was appointed as the Special Public Prosecutor to conduct cases in the TADA Court. Therefore, it was contended that G.O.Ms.No.36 dated 12.01.2011 cannot be taken advantage by the petitioner.

15. The above stand taken by the respondents is unsustainable, for the simple reason that G.O.Ms.No.36 dated 12.01.2011 was made applicable to all Law Officers attached to the Courts subordinate to the High Court and the fees was revised and it included even the Retainer Fee that was revised for Special Public Prosecutor on the Criminal Side. Even though there is no reference about G.O.Ms.No.36 in the Government Order under which the petitioner was appointed, that will not deprive the petitioner from claiming



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the Retainer Fee, since the post of Special Public Prosecutor held by the petitioner is also covered under the relevant Government Order.

16. When the subsequent Government Order was issued in G.O.(D)No.292 dated 13.03.2023 appointing Law Officers in various subordinate Courts in Chennai District, there is a specific mention about G.O.Ms.No.36 dated 12.01.2011. When this was pointed out, the learned Government Advocate appearing on behalf of the second respondent submitted that their appointment was made for a tenure of three years and whereas in the case of the petitioner, no tenure was fixed.

17. The applicability of G.O.Ms.No.36 dated 12.01.2011 is not dependant upon the tenure. Fixation of tenure is the prerogative of the Department while appointing the Law Officers. That will not determine the Retainer Fee that is payable to the petitioner for having retained his services to function as a Special Public Prosecutor in the TADA Court. In the case of petitioner, he had functioned as the Special Public Prosecutor from October, 2011 to March, 2023 i.e., nearly for a period of 11 ½ years. Hence the



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petitioner has been retained for 11 ½ years by the second respondent and

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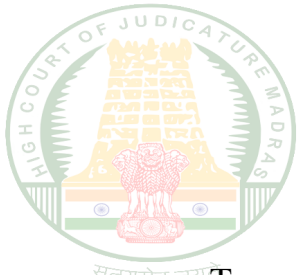
18. In the light of the above discussions, the impugned proceeding of the second respondent dated 07.05.2022 is quashed. There shall be a direction to the respondents to pay a sum of Rs.6,000/- per mensem from October, 2011 to March, 2023, as per G.O.Ms.No.36 dated 12.01.2011, to the petitioner within a period of six weeks from the date of receipt of a copy of this order. If the amount is not paid within the time stipulated by this Court, it shall be paid with interest at the rate of six per cent per annum from October, 2011 till the date of actual payment.

19. In the result, the writ petition is allowed in the above terms. Consequently, W.M.P.No.13776 of 2023 is closed. No costs.

Index : yes/no
Neutral citation : yes/no

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To
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1. The Principal Secretary to Government
Home (Cts.VIA) Department
Secretariat, Chennai 600 009
2. The Superintendent of Police
O/o Superintendent of Police
Q Branch, CID, Mylapore
Chennai 600 004



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N.ANAND VENKATESH,J.

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