

(2011) 07 MAD CK 0270

In the Madras High Court

Case No : Writ Petition No. 2779 of 2006

S. Govinda Rao

APPELLANT

Vs

The Director of School Education, The District Elementary
Educational Officer and The Assistant Elementary Educational
Officer

RESPONDENT

Date of Decision : 22-07-2011

Acts Referred:

Citation : (2011) 07 MAD CK 0270

Hon'ble Judges : Vinod K. Sharma, J

Bench : Single Bench

**Advocate : AL. Gandhimathi, for the Appellant; D. Muruganandam, Additional
Government Pleader, for the Respondent**

Final Decision : Allowed

Judgement

Vinod K. Sharma, J.—The Petitioner has invoked the extra ordinary jurisdiction of this Court, praying for a Writ in the nature of Certiorari, to quash the order dated 10.05.2005, passed by the second Respondent, vide which the medical reimbursement claim of the Petitioner stands rejected for not having been raised within sixty days.

2. The translated version of the impugned order reads as under:

Proceedings of Thanjavur District Elementary Educational Officer Na.Ka. No. 6331/A1/2000 dated 10.05.2005

Sub:Medical Fund to Tamil Nadu Government Employees Scheme - 1991 - Aid to Primary School Teachers and others. Mr. S.Govindarao, Headmaster, Panchayat Union Primary School, Perumankudi at Govirasapuram, Papanasam - Reg.

Ref: (1) S. Govindarao Application dated 16.06.1999.

(2) Proceedings of District Elementary Educational Officer, Thanjavur in Na.Ka. No. 6331/A1/2000 dated 07.06.2002.

(3) Proceedings of Director of School Education, in Na.Ka. No. 46341/EG3/99 dated 26.08.2000.

(4) Proceedings of Director of School Education, in Letter O.M.N.34140/J3/2000 dated 05.09.2002.

(5) Proceedings of District Elementary Officer, Thanjavur in Na.Ka. No. 6331/A1/2000 dated 16.10.2002.

Papanasam Union, Perumankudi Panchayat Middle School, Retired Headmaster Mr. S. Govinda rao have applied for Medical Fund on 16.06.1999. On perusal of the application he has claimed 75% of expense occurred for his heart by pass operation.

S. Govinda rao has underwent treatment and returned from hospital on 24.03.1999. As per Government Letter 57955 Salary 1999-1 dated 10.10.1999 he should apply to us for medical reimbursement within 60 days (i.e., 24.05.1999) from the date of his discharge from the hospital.

But, he has applied only on 16.06.1999. Since he has explained for the delay and requested Chief Secretary to accept his application.

Hence, after considering his request the District Elementary Educational Officer on 16.10.2002 forwarded the same to Director of School Education and the same was returned stating that District Elementary Educational Officer himself has the power to release the fund. Hence the memorandum is returned to District Elementary Educational Officer and he is directed to act as per by Government Letter No. 20042 Salary 2000 - 1 dated 08.08.2000. As per the G.O., Mr. Govindarao has not applied within 60 days and we are unable to release the Medical reimbursement fund.

Memorandum returned.

District Elementary Educational Officer Thanjavur

3. It is not in dispute, that the Petitioner is entitled to medical reimbursement, In fact, the Bill raised by the Petitioner was recommended for payment. The recommendation for the payment was not accepted, for having not submitted it within a period of 60 days. There was delay of 23 days in submitting the Bill.

4. The learned Counsel for the Petitioner, vehemently contends, that the impugned order, cannot be sustained in view of the Judgment of this Court in E. Ramalingam Vs. The Director of Collegiate Education and The Regional Joint Director of Collegiate Education, Tiruchirapalli Region, wherein this Court, was pleased to lay down as under:

5. Insofar as the belated claim, I am of the considered view that the Petitioner was admitted in the hospital on 07.04.2004 due to heart attack and he underwent PTCA Stenting on 22.04.2004 and he was discharged on 25.04.2004 at the fag end of the academic year. Thereafter, he was involved in the admission

process in the college till the month of June, 2004. For the said reason, he could not make the claim immediately and has made the same on 19.07.2004 i.e., after a delay of 23 days. In my opinion, in matters like this, the time limit prescribed cannot be strictly construed as the Government Order is only a beneficial executive order in favour of those who are entitled to claim medical reimbursement. Denying such benefit purely on technical ground of delay, in my view, would be denying the very right to which such persons are entitled to claim the benefit of the Government Order. Moreover, I am convinced with the reason adduced by the Petitioner for not making the claim in time.

5. The period of sixty days has been prescribed only by way of administrative order of the State Government, for early payment of medical expenses, it cannot be held to be mandatory so as to deny the right of the reimbursement, to which the employee is entitled to under the Service Rules.

6. Consequently, this writ petition is allowed, the impugned order passed by the second Respondent, dated 10.05.2005 is quashed.

7. The Respondents are directed to process and release the payment of medical reimbursement, to the Petitioner within a period of two months of date of receipt of a certified copy of this order.

No costs.