

Writ Appeal No.1102 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated: 18.07.2023

CORAM

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

**Writ Appeal No.1102 of 2012
and M.P.No.1 of 2012**

The State of Tamil Nadu,
Rep. By its Chief Secretary to Government,
Secretariat,
Fort St.George,
Chennai – 600 009.

... Appellants/ Respondent

Vs

S.Ramasamy,
S/o.Late R.Somasundaram

... Respondent/Petitioner

PRAYER: Writ Appeal filed under Clause 15 of Letters Pattern to set aside the order dated 15.11.2021 passed in W.P.No.25027 of 2011 and allow the writ appeal.

For Appellants : Mr.R.Shunmugasundaram
Advocate General
assisted by Mr.K.V.Sajeev Kumar
Special Government Pleader

For Respondent : Mr.G.Rajkumar
for Mr.K.Yuvaraj



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JUDGMENT

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This intra-court appeal has been directed against the order passed by the Writ Court dated 15.11.2011 mad in W.P.No.25027 of 2011.

2. The respondent was the writ petitioner, who is a practising lawyer since 1972 and on 10.06.2006, he was appointed as Additional Advocate General -II of the State of Tamil Nadu and he was subsequently designated as a Senior Advocate and later on 25.09.2009, he was appointed as Additional Advocate General - I. In that capacity, he appeared in several cases for the State of Tamil Nadu before this Court as well as before the Madurai Bench of this Court between 2006 - 2011.

3. He had claimed his eligible fee per day/per case basis and thereafter, he resigned the post of Additional Advocate General - I after the assembly elections results were announced. Therefore, from the year 2006 to 13.05.2011, the respondent/writ petitioner submitted various bills for his appearance as Additional Advocate General - II and I in respect of various departments and according to the respondent/petitioner, the outstanding amount is Rs.1,95,01,622/-(One



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crore Ninety Five lakhs one thousand six hundred and twenty two only).

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4. Since that amount had not been given in spite of several representations, he approached the Writ Court by filing a writ petition seeking writ of mandamus. A learned Judge, who heard the matter allowed the writ petition by order dated 15.11.2011, whereby, the learned Judge directed the appellant/department herein to sanction and pay the eligible fee payable to the respondent/petitioner considering the claim made by him within a period of two(2) weeks from the date of receipt of a copy of the said order. Aggrieved over the same, the respondent/State in the writ petition has filed the present writ appeal.

5. Though this writ appeal had been filed in the year 2012, it has been kept pending for long years i.e., more than a decade.

6. When this appeal came up for hearing earlier before a co-ordinate bench on 24.04.2023, a direction was given to the learned Additional Advocate General to file a status report in this regard.



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7. Thereafter, pursuant to the said direction, when this writ appeal came up for hearing on 05.07.2023, the Division Bench has passed the following order:

“Pursuant to the last order dated 24.04.2023, on behalf of the Advocate General a report has been filed along with annexures.

2. The sum and substance of the report reveals that, whatever amount that has been claimed by the respondent has already been settled and a copy of the report has been served on the learned counsel appearing for the respondent who would submit that, he has received the report and after consulting with the respondent, he will revert back, hence he seeks two weeks time.

3. Post the matter on 18.07.2023.”

8. Pursuant to the said order, today when the writ appeal is taken up for hearing, Mr.G.Rajkumar, learned counsel appearing for the respondent has submitted that, as per the memo of calculation, where the bills have been settled in favour of the respondent by the appellant/Department, the fee payable to him has been completely paid, that means, the entire claim made by the respondent has been paid to him. When that being the position, on merits the appeal filed by the appellant against the learned single Judge order at this juncture need not



be persuaded further, therefore, though we thought of disposing this writ appeal, before parting with the case, we want to give certain directions to the appellant/State.

9. The reason being that, pursuant to the said direction by a co-ordinate bench in this matter and taking into account of various orders passed by this Court at several point of time, where the similar issues had come up with regard to the alleged non-payment of fees to law officers including Advocate General or Additional Advocate General, the Advocate General in his D.O letter in Roc.No186/AGRS/2021-1, dated 08.06.2023, addressed to the Chief Secretary to Government of Tamil Nadu, *inter alia* has stated the following:

“Thus, it could be seen that the issue of non-payment of professional fees to the former law officers repeatedly occurs and various writ petitions are filed before the Hon'ble Court. Though many directions have been issued by the Hon'ble Court, the prevailing system to deal with the issue is not sufficient to redress the issue and hence the system has to be revamped suitably, in order to avoid any litigants in this regard future. Many law officers have complained that their fee bills are not cleared by payments made even after a year. The fee bills of the present



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Advocate General and Additional Advocates General have not been fully paid so far, only 11% of the bill have been cleared and paid so far.

For this purpose alone in reference 1st cited above, nearly two years back, I have already proposed to the Government to revamp the system and to convene a meeting in this regard. However, no reply has been received so far. Now, the report of the Advocate General in this regard has to be filed before the Hon'ble Court consisting of Mr.Justice D.Krishnakumar and Mrs.Justice K.Govindarajan Thilakavadi in W.A.No.1102 of 2012 and it is very much essential to submit a concrete, defined system of engagement of Advocate General/Additional Advocate General's and also for the early payment of their fees bills, to the Hon'ble Court.

Hence, I would suggest to the Government as follows:

(i) To designate any one department at the Secretariat level to receive the proposal from the Heads of the Department, Law Officers etc., for the engagement of Advocate General/Additional Advocates General's in the matters on behalf of the State and to issue their appearance G.O's in a centralized system.

(ii) To designate any one Department at the Secretariat level to receive, process and settle the fees bills of the Advocate General/Additional Advocates General's in



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a centralized system. The said department will process the fee bills in consultation with the concerned department which is arrayed as party in that particular case.

(iii) Periodic reports about the pendency of the bills and the details of the payment made to the concerned law officer should be updated in the CCMS portal once in three months. The reports would be shared with the concerned law officers.

(iv) The entire process will be only under online system.

The copy of the judgments mentioned in the above matter is herewith enclosed for your ready reference and early instructions in this regard.

Yours,

sd/-

[R.SHUNMUGASUNDARAM]

Advocate General of Tamil Nadu

To

*Dr.V.Irai Anbu, I.A.S.,
Chief Secretary to Government,
Secretariat, Chennai – 600 009.”*

10. In the said letter, the learned Advocate General has traced what had happened in these kind of cases in past and in some occasions



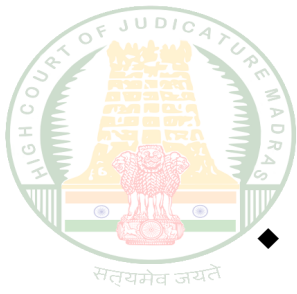
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observations had been made by this Court on the attitude of the Government in not paying the legal fee to the law officers and therefore, in order to avoid these kind of unpleasantness where the formal law officers of the State are driven to come before this Court to make a lis for their professional fees, the Advocate General has suggested certain measures in his letter dated 08.06.2023, which have been quoted herein above.

11. Today also the learned Advocate General is before us and he would state that, for the said letter so far no reply has been given, probably that might have been in the consideration of the Government.

12. We have taken note of the said development including the content in the said letter of the Advocate General dated 08.06.2023, especially the suggestions made therein by him. In view of the same, we deem it appropriate to give certain directions to the appellant/State to take steps to issue guidelines in respect of consideration and clearance of the professional fee bills for the law officers of the State at various level.

13. Accordingly, the following directions are issued:



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- ◆ That the four suggestions made by the learned Advocate General vide his letter dated 08.06.2023, as recorded herein above shall be considered and implemented by the State Government.
- ◆ In this regard, a Nodal officer in the rank of Secretary or Additional Secretary of the State Government shall be specifically nominated for the purpose of dealing with the requests made on behalf of the various departments for nomination of Advocate General and Additional Advocate General for the appearance in important cases by or against the State Government and its Departments.
- ◆ The Nodal Officer shall also consider and look after the professional fee claim made from time to time by various law officers starting from Advocate General, Additional Advocate General, State Government Pleader, Special Government Pleader, Additional Government Pleader, Government Advocate, etc., and those professional bills, which are made/claimed by such law officers shall be examined and disposed either by way of making the payment or if any ineligible amount is claimed, as per the conditions of appointment of law officers, that can also be stated to the law officers, either way, the claim should be disposed of within



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a period of 30 days from the date of such claim is made by the law officer concerned.

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- ◆ In this regard, in order to assist the Nodal Officer, minimum secretarial staff shall be provided by the State Government. The Nodal Officer shall be in constant touch with all other departments of the State Government with regard to their requirement of appointment of higher law officers on specific cases as well as for the clarifications, etc., to be ascertained for the purpose of verification and clearing of the fee bills.
- ◆ It is made clear that once the Nodal Officer after thorough consideration and verification, clears the professional fee bill of the law officers, the payment shall be made within 30 days thereafter and it should be ensured by the Nodal Officer.
- ◆ In order to comply the aforesaid directions necessary Government Order shall be issued by the State Government within a period of 30 days from the date of receipt of a copy of this order and a compliance report to that effect shall be filed before this Court on 28.08.2023.



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With the above directions, this writ appeal is disposed of. No costs. Connected miscellaneous petition is closed. However, for reporting compliance post this case on 28.08.2023.

(R.S.K.,J.) (K.B., J.)
18.07.2023

Index: Yes
Speaking Order
Neutral Citation: Yes

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Note: Issue order copy today (18.07.2023)



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R.SURESH KUMAR., J.
and
K.KUMARESH BABU.,J.

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