

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.319 of 2011

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Gyan Prakash S/O Sri Sheonandan Choudhary R/O Mohalla Panchwati Colony, Madnani Gali, Mithanpura, P.O. Ramna, Muzaffarpur And At Present C/O Manoj Kumar Srivastava, New Area, Hospital Road, Buxar.

.... Petitioner

Versus

1. The Life Insurance Corporation Of India Through Its Zonal Manager, 4 Chitrangan Avenue, Hindustan Buildings, Kolkata, West Bengal.
2. The Zonal Manager, Zonal Office, Life Insurance Corporation Of India, 4 Chitrangan Avenue, Hindustan Buildings, Kolkata, West Bengal.
3. Manager (P&Ir), Life Insurance Corporation Of India, Patnadivisional Office, Jeevan Prakash, Majrool Haque Path, Patna.
4. Senior Divisional Manager, Life Insurance Corporation Of India, Patna Divisional Office, Jeevan Prakash, Majrool Haque Path, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Ashutosh Ranjan Pandey, Adv.

For the Respondent/s : Dr. Anshuman, Adv.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

3 03-07-2015 Heard learned counsel for the petitioner. No one appears on behalf of the Life Insurance Corporation of India.

The prayer of the petitioner in this writ application reads as follows:

- “i. That the order dated 9.2.2010 and 16.2.2010 contained in Annexures 7 and 8 may be quashed.
- ii. That the respondents may be directed to consider the case of the petitioner in the light of Regulation 38(a) of the LIC of India (Staff Regulation), 1960 as evident from Annexure 5 since the petitioner has been honourably acquitted.
- iii. That the respondents may be directed to make payment of interest upon his arrears to which he has been illegally denied to him.”



Learned counsel for the petitioner has straightway taken this Court to the impugned order dated 9.2.2010 and 16.2.2010, as contained in Annexures 7 and 8, and has submitted that the decision of the authority of denying the salary for the period of suspension is wholly unjustified, inasmuch as the petitioner had been given a clean in the criminal case.

Though learned counsel for the L.I.C. is not present but from the counter affidavit it would transpire that the only plea for denial of salary for the period of suspension is that the authorities of the L.I.C. had found the acquittal of the petitioner to be not honourable. This becomes clear from reading of paragraph no.13 of the counter affidavit which is quoted hereinbelow:

“13. That at the outset the answering respondents submit that the grievance of the petitioner as made in paragraphs 1 and 2 of the writ application is not liable to be redressed. From perusal of the order of acquittal vide Annexure 6 of this writ application it appears that the petitioner has not been acquitted honourably. Thus, in the light of the order of acquittal, the case of the petitioner has been considered under Rule 38(B). As the acquittal is not honourable, rather due to failure of prosecution to bring sufficient evidence, therefore, his case cannot be treated under Rule 38(A) of LIC of India (Staff Regulation), 1960. In view of this submission the grievance of the petitioner is not legitimate and hence, it

is fit to be rejected. Thus, the grievance made in paragraphs 1 and 2 is fit to be rejected.”

In the considered opinion of this Court such reason is contrary to the materials on record and especially to the finding recorded by the trial court in its judgment while acquitting the petitioner. From reading of the entire judgment and particularly its paragraphs no. 20 and 22 there would be no scope for any speculation that the petitioner was given clean acquittal. Paragraphs no. 20 and 22 of the judgment of acquittal of the petitioner reads as follows:

“20. Applying direction of aforesaid ruling in the present case for accused Gyan Prakash we find that (P.W.1 para 3, P.W.2 para 14, P.W.3 para 10) shows that accused Gyan Prakash had good relation with his wife Bindu Prakash. It is also proved from the evidences of P.Ws. 1 to 3 that on the date of occurrence at about 7 A.M. when Gyan Prakash was leaving the house his wife Bindu Prakash came out to see of him. Later on dead body of Bindu Prakash was recovered from the locked house which has not locked by Gyan Prakash. Hence, her death in the absence of Gyan Prakash is apparent and Gyan Prakash lodged F.I.R. against his brother Bijay Kumar Chaudhary who was residing with them. Confessional statement of co-accused made in police custody has got no evidenciary value. So no circumstance exists from which conclusion of guilt of this accused could be drawn and chain of evidence appears to be consistent with the

innocence of this accused.

22. Thus, on the basis of aforesaid discussions we come to the conclusion that the prosecution was unable to bring home the guilt of accused Gyan Prakash whereas it was able to bring home the guilt of accused Binay @ Vijay Kumar Choudhary under section 302 of I.P.C.”

Having regard to the aforementioned finding of this Court it will have now no difficulty in quashing the impugned order, as contained in Annexures 7 and 8, and directing the authorities of the L.I.C. to pay salary and full emoluments of the period of suspension of the petitioner keeping in view the settled principle of law as also requirement in the Regulation of the L.I.C. of making full payment of a person suspended on the ground of pendency of the criminal case and his coming out with a clean acquittal in such criminal case.

Thus, for the reasons indicated above, this application is allowed.

(Mihir Kumar Jha, J)

surendra/-

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