



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :05.06.2015

CORAM

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.12689 of 2011

M.Shanmugaraja

... Petitioner

Vs.

1.The Chairman cum Managing Director,
United India Insurance Co.Ltd.,
Head Office,
No.24, White Road,
Chennai-14.

2.The Deputy General Manager,
United India Insurance,
No.24, White Road,
Chennai-14.

3.The Chief Regional Manager,
United India Insurance Co.Ltd.,
Regional Office,
7A, West Veli Street,
Madurai-625 001.

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for records relating to the impugned order HO:MKTG:252:2011 dated 22.08.2011 passed by the respondent and quash the same and consequently direct the respondent's to reinstate the petitioner in service with all attendant benefits and back wages within the time limit as imposed by this Hon'ble Court.

For Petitioner : Mr.M.Arun Murugan

For R3 : Mr.G.Prabhu Rajadurai

For R1 & R2 : No appearance

Date of Reserving the order : 30.03.2015

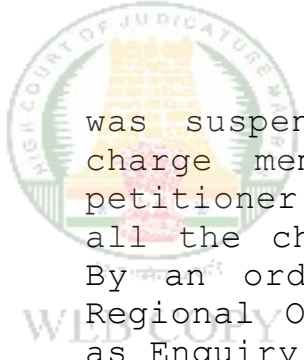
Date of pronouncing the order : 05.06.2015

ORDER

The petitioner has come up with this writ petition to call for records relating to the impugned order HO:MKTG:252:2011, dated 22.08.2011 passed by the respondent and quash the same and consequently direct the respondent's to reinstate the petitioner in service with all attendant benefits and back wages.

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2. The petitioner was appointed as a Development Officer Grade-I. While he was working as Development Officer Grade -I, he



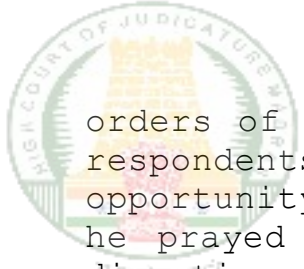
was suspended from service on 22.03.2002. On the same day, a charge memo was issued to him containing four charges. The petitioner submitted his explanation, dated 01.08.2002, denying all the charges levelled against him and sought for an enquiry. By an order, dated 19.08.2002, one K.Ravi, Assistant Manager, Regional Officer, Madurai Regional Office, Madurai was appointed as Enquiry Officer.

3. According to the petitioner, on 06.09.2002, while he was preparing to face the enquiry, the Enquiry Officer influenced the petitioner to accept all the charges levelled against him and seek for pardon, so that he can continue in service. Believing his words, the petitioner admitted his charges and sought pardon. The petitioner signed the letter, dated 06.09.2002 prepared by Enquiry Officer and gave it to the Enquiry officer. Based on the said letter, the Enquiry Officer submitted his report, dated 11.09.2002 finding the petitioner guilty of all charges. Therefore, the petitioner sent a letter, dated 13.12.2002, to the First Respondent seeking fresh enquiry. No action was taken on the said letter. On the other hand, by the order dated 09.12.2002, the petitioner was imposed with a punishment of removal from service by the third respondent. The petitioner filed an appeal on 23.01.2003 and the same was rejected in a mechanical manner, without applying his mind and confirmed the order of the Disciplinary Authority.

4. The petitioner filed W.P(MD)No.2829 of 2005 challenging the order of dismissal. This Court, by the order, dated 29.06.2006 dismissed the writ petition. The petitioner filed W.A.No.475 of 2006 against the order passed in the writ petition in W.P(MD). No.2829 of 2005. The Division Bench of this Court dismissed the Writ Appeal on 24.01.2007. At the time of dismissal, the Division Bench of this Court directed the respondents to consider any representation if made by the petitioner.

5. The petitioner gave a representation, dated 20.12.2010. The same was not considered by the respondent. Therefore, the petitioner filed W.P(MD).No.1389 of 2011 and this Court, by an order, dated 16.06.2011, directed the respondents to consider the representation of the petitioner, dated 20.12.2010, within eight weeks from the date of receipt of a copy of that order. As per the orders of this Court, the first respondent, by the impugned order, dated 22.08.2011, rejected the representation of the petitioner. The petitioner has challenged the said order by way of this writ petition.

6. According to the petitioner, he admitted the charges only on the influence of the Enquiry Officer. Immediately, after receipt of the Enquiry Report, he sought for fresh enquiry. No fresh enquiry was conducted. But the order of removal was passed. Similarly placed employees like M.A.Mohammed Ismail, Raja and M.A.Madhan were imposed lessor punishment. Further, as per the



orders of the Division Bench of this Court, dated 24.01.2007, the respondents did not conduct fresh enquiry and did not give opportunity to the petitioner to put-forth his case and therefore, he prayed to quash the order dated 22.08.2011 and consequential direction with all attendant benefits and back wages within time fixed by this Court.

7. The learned counsel for the petitioner relied on the order dated 31.08.2009 in W.A.No.1462 of 1998.

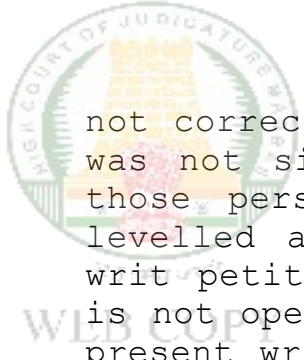
8. The respondents filed counter affidavit denying all the averments and stating that no grounds has been made out to quash the impugned order in the writ petition. The writ petition is not maintainable and abuse of process of this Court. The petitioner was removed from service by an order, dated 09.12.2002 and was confirmed by the order of appellate authority, on 15.07.2004. The W.P.No.2829 of 2005 and W.A.No.475 of 2006 filed by the petitioner were dismissed by this Court. The order of removal has attained finality and there is no reason to set aside the said order. While dismissing the W.A.No.475 of 2006, this Court directed the respondents to consider the representation if any by the petitioner. The petitioner made a representation dated 20.12.2010. This Court by an order, dated 16.06.2011, made in W.P.No.1389 of 2011, directed the respondents to consider the representation and pass orders within eight weeks. In compliance of the order of this Court, representation of the petitioner was considered and rejected by the impugned order. The order of punishment was confirmed by this Court in Writ Petition and Writ Appeal. The petitioner is trying to re-agitate the issue. No direction was given to the respondent by the Division Bench, to conduct fresh enquiry and therefore, prayed for dismissal of the writ petition.

9. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

10. I have carefully perused the materials available on record and considered the arguments of both sides.

11. The contention of the petitioner in this writ petition is that the respondents did not conduct fresh enquiry, as ordered by the Division Bench of this Court. A reading of order of Division Bench of this Court shows that there is no such direction. The Division Bench only directed the respondents to consider the representation, if any made by the petitioner. Therefore, the contention of the petitioner that Division Bench of this Court directed fresh enquiry is contrary to the facts.

12. The next contention of the learned counsel for the petitioner that Enquiry Officer influenced him to admit the guilty and similarly placed employees were imposed lessor punishment were considered by this Court in earlier writ petition and Writ Appeal and were rejected by this Court. Further it is



not correct to state that 3 persons referred to by the petitioner was not similarly placed persons. The charges levelled against those persons were not as serious charges of misappropriation levelled against the petitioner. As this Court in the earlier writ petition and writ appeal had rejected these contentions, it is not open to the petitioner to re-agitate the said issue in the present writ petition. Therefore, the judgments relied on by the learned counsel for the petitioner with regard to disparity of the punishment is not applicable to the facts of the present case. Further, this Court on earlier occasion has considered explanation submitted by the petitioner to the charge-memo and held that the petitioner had not filed proper explanation to the charges along with documents except pleading for Mercy. The grounds on which, the petitioner seeks to set aside the order of the first respondent were already considered by this Court in the writ petition and writ appeal and were rejected.

13. For the reasons stated above there is no merit in the present writ petition and the same is dismissed. No costs.

Sd/-

Assistant Registrar(C.O)

/True Copy/

Sub-Assistant Registrar

To

1.The Chairman cum Managing Director,
United India Insurance Co.Ltd.,
Head Office,
No.24, White Road, Chennai-14.

2.The Deputy General Manager,
United India Insurance,
No.24, White Road, Chennai-14.

3.The Chief Regional Manager,
United India Insurance Co.Ltd.,
Regional Office, 7A, West Veli Street,
Madurai-625 001.

+One cc to M/s.A.Thirumurthy, Advocate, SR.No.28185

+One cc to Mr.G.Prabhu Rajadurai, Advocate, SR.no.27915

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RL/6c - 19/6/2015

W.P. (MD) No.12689 of 2011