

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO.33022 OF 2011

DATED:22-9-2015

Between:

K.V. Sarma ... Petitioner

And

The New India Assurance Company Limited

Rep. by the Chairman and Managing Director

New India Assurance Building, 87, MG Road

Fort, Mumbai

and others ... Respondents

... Respondents

COUNSEL FOR THE PETITIONER: Mr. Siva

COUNSEL FOR THE RESPONDENTS: Mr. Vedula Srinivas

THE COURT MADE THE FOLLOWING:

ORDER:

This writ petition is filed for the following substantive relief:

*“...to issue a direction, order or Writ more particularly one in the nature of Mandamus;*

- a. *Declaring the inaction of the respondents in not acting upon the judgment of this Hon'ble Court in Criminal Appeal No.625/2003, dated 16.12.2009 and reinstate the petitioner as arbitrary, illegal, unconstitutional and consequently violative of Article 14 of the Constitution of India;*

- b. *Consequent upon such a declaration, direct the respondents to reinstate the petitioner with effect from 16.12.2009, the date on which the Hon'ble Court has set aside the order and judgment of the Trial Court and compute and release all the benefits including monetary; seniority; and subsequent promotions if any together with interest of 12% per annum."*

At the hearing, Mr. Siva, learned counsel for the petitioner, fairly submitted that his client has since retired, prayer (a) does not survive for adjudication.

As regards prayer (b), it is not in dispute that the petitioner was dismissed from service only on the ground of his conviction by judgment dt.12.6.2003 in C.C. No.26 of 2000, on the file of the Special Judge for C.B.I. Cases, Visakhapatnam. It is also not in dispute that the said judgment has been set aside by this Court by judgment dt.16.12.2009 in Criminal Appeal No.625 of 2003. Indeed, the reliefs claimed by the petitioner are solely based on this judgment.

Mr. Vedula Srinivas, learned counsel for the respondents, has not disputed the fact that the petitioner was acquitted honourably under the above mentioned judgment of this Court. He has however stated that an appeal was filed against the said judgment and the same is registered as Appeal No.1359 of 2013 and pending before the Supreme Court.

In my opinion, when the dismissal of the petitioner was based on his conviction which was subsequently set aside, the basis of the order of removal stands disappeared and consequently the petitioner is entitled for reinstatement, subject to result of the appeal stated to be pending before the Supreme Court. However, since the petitioner has retired from service, he is entitled to release of all the monetary benefits computed at least as on the date of his dismissal, for the present. The learned counsel for the respondents has expressed an apprehension that in the event the Supreme Court reverses the judgment of this Court and the monetary benefits are released in the meantime, it will be difficult for the respondents to recover the same. To allay this apprehension, learned counsel for the petitioner submitted that his client is willing to furnish immovable property security to the satisfaction of respondent No.3 as a condition for release of the terminal benefits. He has further submitted that the consequential service benefits associated with the reinstatement may be settled after disposal of the appeal by the Supreme Court.

In the above facts and circumstances of the case, the respondents are directed to release the monetary benefits such as pension, gratuity etc., to which the petitioner is entitled, treating him as having been reinstated into service and computed as on the date of his dismissal on his furnishing immovable security to the satisfaction of respondent No.3 The respondents are further directed to release further benefits, if any, for the interregnum period from the date of his dismissal and the date of his retirement, in the event of his success in the aforementioned criminal appeal before the Supreme Court.

Subject to the above directions, the writ petition is allowed.

As a sequel to disposal of the appeal, W.P.M.P. No.41035 of 2011 shall stand disposed of as infructuous.

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C.V. NAGARJUNA REDDY, J

22-9-2015

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