

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.1924 of 2015

B.Shanmugam

... Petitioner

Vs.

1. The General Manager,
The New India Assurance Company Ltd.,
having its Head Office at
No.87, M.G. Road,
Fort, Mumbai 400 001.

2. The Deputy General Manager,
The New India Assurance Company Ltd.,
having its Regional Office at
No.770A, Anna Salai,
Chennai 600 002.

... Respondents

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of mandamus directing the respondents to settle the terminal dues as per Type - "C" as per the representation dated 03.11.2014.

For Petitioner : Mr.S.Thiruvengadam

For Respondents : Mr.V.Vijay Shankar

O R D E R

The petitioner has come up with this Writ Petition seeking a direction to the respondents to settle the terminal dues as per Type - "C" as per his representation dated 03.11.2014.

2. According to the petitioner, he retired from the respondent Company on attaining superannuation on 30.09.2014 as a Divisional Manager, Alwarpet Division. Though he was allowed to retire, he was served with a Charge Memo dated 27.10.2014 after his retirement on the ground of administrative decision taken during April 2010.

3. In order to have a common procedure amongst all Public Sector Insurance Companies, the Board of the respondent Company approved the guidelines for settlement of terminal dues and issued a Circular dated 25.03.2014. It is the case of the petitioner that he is squarely coming under the category 'C' of the said guidelines and he sent representations on 20.10.2014 and subsequently on 03.11.2014, 26.11.2014 and 19.12.2014 requesting the respondents to consider his case under Type "C" circular dated 25.03.2014 and to act accordingly. Since his request has not been considered so far, having no other alternative, the petitioner has come up with this Writ Petition.

4. When the matter is taken up for consideration, learned counsel for the petitioner submitted that the petitioner's grievance would be redressed if his representation dated 03.11.2014 is directed to be considered by the respondents within a stipulated period.

5. In reply, learned counsel appearing for the respondents, by filing a detailed counter, submitted that Regulation 47 empowers the competent authority viz. the Insurance Company to initiate departmental proceedings even after retirement. In terms of these Rules, Departmental proceedings can be initiated either while the employee is in service or within four years thereafter. It is his further submission that in the light of these Regulations, the respondents have authorized the provisional pension to the petitioner and in addition, have released Earned Leave Encashment amounting to Rs.6,60,742/- and Provident Fund Contribution amounting to Rs.11,51,970/-. The service conditions and payment of terminal benefits to employees including the petitioner herein are covered by the Pension Scheme, 1995, which empowers the employer viz. Insurance Company to withhold certain terminal benefits in the event of any departmental or criminal proceedings pending against an employee. Since the petitioner has been issued with a Charge Memo on 27.10.2014, in the light of the same, the petitioner is not entitled to full pension, gratuity and other withheld benefits.

6. Irrespective of the case projected by the petitioner as well as the respondents, this Court, without expressing any opinion on the merits of the case, directs the petitioner to send a copy of the representation dated 03.11.2014 along with a copy of this order to the respondents within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the respondents are directed to consider the petitioner's representation within a period of four weeks thereafter.

With the above direction, this Writ Petition is disposed of.
No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To:

1. The General Manager,
The New India Assurance Company Ltd.,
having its Head Office at
No.87, M.G. Road,
Fort, Mumbai 400 001.
2. The Deputy General Manager,
The New India Assurance Company Ltd.,
having its Regional Office at
No.770A, Anna Salai,
Chennai 600 002.

+1cc to Mr.S.Thiruvengadam, Advocate, S.R.No.68690

+1cc to Mr.V.Vijay Shankar, Advocate, S.R.No.68937

W.P.No.1924 of 2015

NRI (CO)
CA(30/11/2016)

सत्यमेव जयते

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