

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2018

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.34856 of 2015
and
M.P.No.1 of 2015

Dr.K.Rayar

..Petitioner

Vs.

- 1.Life Insurance Corporate of India, Central Office,
Rep.by its Chairman,
Yogashema Jeevan Bima Marg.
P.B.No.19953, Mumbai - 400 021.
- 2.The Zonal Manager,
Life Insurance Corporate of India, Southern Zonal Office,
LIC Building, Anna Salai,
Chennai 600 002.
- 3.The Senior Divisional Manger,
Life Insurance Corporate of India, Divisional Office,
Jeevan Prakash, Arcot Road,
P.B.No.423, Vellore 632 004.
- 4.The Branch Manager,
Life Insurance Corporate of India, Branch Office,
East Pondy Road,
Villupuram
PIN CODE:605602.

..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the impugned communication/order dated 19.08.2015, 01.09.2015 and 30.09.2015 by the 3rd respondent quash the same in so far as not granting the other benefits as per the order in W.P.No.29284 of 2005 dated 26.11.2008 and direct the respondents to allot the 28 in force agents and the remaining 32 agents with effect from 12.04.2005 and pay all consequential financial benefits like I.B., A.C.A., increment, etc. and service which have accrued from 12.04.2005 till the date of reinstatement as per the orders in W.P.No. 29284 of 2005 dated 26.11.2008.

For Petitioner : Mr.Arunkumar

For Respondents : Mr.S.Silambarasan
Senior Counsel for
M/s.Profescs Associates

O R D E R

The order dated 19.07.2015, 01.09.2015 and 30.09.2015 issued by the 3rd respondent is sought to be quashed on the ground that the respondents have failed to implement the order passed by this Court in W.P. No.29284 of 2005, dated 26.11.2008. Further direction is sought for to allot the 28 in force agents and remaining 32 agents with effect from 12.04.2005 and pay all consequential financial benefits like I.B., A.C.A., increment, etc. and service which were accrued from 12.04.2005 till the date of reinstatement as per the orders in W.P.No. 29284 of 2005 dated 26.11.2008.

2. The grievances of the writ petitioner is that he was removed from service by the order of the respondents against which he filed W.P.No. 29284 of 2005. The order of termination was set aside by this Court and a direction was issued to reinstate the writ petitioner with all consequential benefits. The relevant paragraph of the order is extracted hereunder:-

"In the light of these factual matrix, this Court has no hesitation to set aside the impugned order of removal passed by the respondents. The writ petition will stand allowed and the petitioner, is entitled to get reinstatement. With reference to the backwages, since the petitioner had not worked during the relevant time and his work is that of a Development Officer, this Court is not inclined to grant any backwages for the period from the date of dismissal till the date of his reinstatement. But, the interregnum period shall be counted for all practical purposes including for terminal benefits. However, there will be no order as to costs. The respondents are directed to comply with this order within a period of eight weeks from the date of receipt of a copy of this order.

3. Challenging the said order the Management preferred a Writ Appeal and the said Writ Appeal was dismissed on 24.03.2010 in Writ Appeal No.1490 of 2008. The SLP filed by the Management was also dismissed by the Hon'ble Supreme court of India on 29.07.2015. Thereafter, the writ petitioner was reinstated. The grievances of the writ petitioner is that the agents, which were serving under his control, prior to his termination were not allowed to continue with the writ petitioner, even after his reinstatement. The services of a

Development Officer is a personalized one and therefore the same agents must be attached to the writ petitioner enabling him to get all consequential benefits with relevant to the business growth done by those agents. In other words, the petitioner was deprived of the increments and other perquisites with relevant to the quantum of business done by these agents who were serving previously under the control of the writ petitioner.

4. The learned Senior Counsel appearing on behalf of the respondents opposed the contention by stating that the order of this Court passed in W.P. No.29284 of 2009 was implemented in letter & spirit and the writ petitioner was re-instated. In fact, the consequential benefits and all other monetary benefits were settled in accordance with the rules in force and the writ petitioner also received the same. The agents were allotted to the writ petitioner after his re-instatement as per the rules in force. During the pendency of the litigation, the rules relating to the engagement of the agents underwent changes and therefore, the writ petitioner had been allotted with the agents as per the rules in force at the time of reinstatement. The writ petitioner has no loco-standi to claim the very same agents or otherwise which is not contemplated under the rules.

5. This apart the learned Senior Counsel informed this Court that subsequently with reference to another disciplinary proceedings, the writ petitioner was once again removed from service on 31.03.2018 and the petitioner attained the age of superannuation and he is no more in service. In view of the fact that the writ petitioner is not in service, the question of allotment of agents to the writ petitioner does not arise at all. Thus, the very relief sought for became infructuous and the cause is noneist.

6. This apart when the writ petitioner was out of employment, the benefits accrued on account of the business growth by the agents cannot be extended to the writ petitioner. It is needless to state that a person who participated in the actual business alone is entitled to get increments bonus or other benefits attached for the growth of business development in the Corporation. Therefore, the very claim made by the writ petitioner is that the business increments and other benefits be granted during his non employment period. Further, the writ petitioner is not in service as of now. The learned counsel for the petitioner states that against the order of removal, he preferred an appeal before the appellate authority raising all the grounds. The said appeal was dismissed against, which a memorial was filed before the Chairman. Thus, it is for the writ petitioner to pursue the statutory remedies available under the provisions of Service Rules. In respect of other service benefits as applicable to the writ petitioner shall be considered only if the writ petitioner succeeds.

7. With these observations, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

vsi-2/jas

Sd/-

Assistant Registrar (CS CO)

//True copy//

Sub Assistant Registrar

To

1. The Chairman,
Life Insurance Corporate of India, Central Office,
Yogashema Jeevan Bima Marg.
P.B.No.19953, Mumbai - 400 021.
 2. The Zonal Manager,
Life Insurance Corporate of India, Southern Zonal Office,
LIC Building, Anna Salai,
Chennai 600 002.
 3. The Senior Divisional Manager,
Life Insurance Corporate of India, Divisional Office,
Jeevan Prakash, Arcot Road,
P.B.No.423, Vellore 632 004.
 4. The Branch Manager,
Life Insurance Corporate of India, Branch Office,
East Pondy Road,
Villupuram - 605 602.
- + 1 cc to M/s. Profescs Associates, Advocate Sr 73583
+ 1 cc to M/s. D. Prabhu Mukunth Arunkumr, Advocate Sr 73608

KR/23/11/18

W.P.No.34856 of 2015
and
M.P.No.1 of 2015

WEB COPY