

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.04.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No.29338 of 2017

and

W.M.P.Nos. 31597 & 31598 of 2017

K.P.Padmanabhadas

...Petitioner

Vs

- 1.The Divisional Manager  
The Oriental Insurance Co. Ltd.,  
Arunagiri Complex  
Bye pass Road  
Hosur Post, Krishnagiri District  
Tamil Nadu.
- 2.The Chairman-cum-Managing Director  
The Oriental Insurance Co. Ltd.,  
Oriental House  
A/25/27, Asaf Ali Road  
New Delhi-110 002.
- 3.The Chief General Manager  
The Oriental Insurance Co. Ltd.,  
Oriental House  
A/25/27, Asaf Ali Road  
New Delhi-110 002.
- 4.The Chief Regional Manager  
Pension Department  
Head Office  
The Oriental Insurance Co. Ltd.,  
Oriental House  
A/25/27, Asaf Ali Road  
New Delhi-110 002.
- 5.The Economic Advisor  
The Oriental Insurance Co. Ltd.  
Insurance Division, 3rd Floor  
Jeevan Deep Building  
Sansad Marg, New Delhi-110 001.

6.The Chief Regional Manager  
The Oriental Insurance Co. Ltd.  
Regional Office  
No.78, 3rd Floor, Cheran Towers  
Government Arts College Road  
Coimbatore - 641 018.

7.The Personal Manager  
The Oriental Insurance Co. Ltd.  
Regional Office  
No.78, 3rd Floor, Cheran Towers  
Government Arts College Road  
Coimbatore - 641 018.

8.The Deputy Manager  
IAID Regional Office  
No.78, 3rd Floor, Cheran Towers  
Government Arts College Road  
Coimbatore - 641 018.

.... Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue of Writ of Certiorarified Mandamus, calling for the records relating to the Recovery of Non-core benefits of decrement notice dated 12.02.2015 in Dept.MKTG, on the file of the first respondent herein and to quash the same and to directing the first respondent to consider the representation made by the petitioner on 25.05.2015, 22.01.2017, 26.01.2017 and 02.04.2017 and to pay a sum of Rs.9,07,809/- towards gratuity as withheld by them and also direct the respondents to pay all terminal, monetary and retirement benefits to the petitioner as accrued by him as Development Officer Grade-I, under the respondents 6 to 8 company and retired on 31.03.2015 and to pay him a monthly pension by fixing his salary as Rs.65,510/- as per the revised scale of pay with issuing a copy of the pension order to the petitioner, within a time frame as may be fixed by this Hon'ble Court.

For Petitioner : Mr.K.K.N.Ganeshan

For Respondent : Mr.A.Thayaparan

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### O R D E R

The order of recovery issued by the respondents in proceedings dated 12.02.2015 is under challenge in this writ petition.

2.The learned counsel appearing for the writ petitioner states that the writ petitioner was employed as Development Officer Grade-I in the Oriental Insurance Company Limited and

attained the age of superannuation on 31.03.2015. The grievances of the writ petitioner is that he had served about 37 years in the organisation and on the eve of retirement the order of recovery was issued stating that certain objections were raised in respect of grant of non-core benefits of decrement based on his business performance in excess of stipulated cost from the year 2008-2015. At the outset, the non-core benefits were granted to the writ petitioner excessively in order to recover the same, the impugned order of recovery has been issued. However, no show cause notice and opportunity was provided to the writ petitioner even to defend his case before the Competent Authority in this regard.

3.The learned counsel appearing on behalf of the respondents states that the excess payment already credited in favour of the writ petitioner has to be recovered by the management. Further, vide letter dated 30.07.2015 the writ petitioner himself given an undertaking to adjust the said amount.

4.However, it is not for this court to consider all these materials on merits. At this juncture, in view of the fact that no notice and opportunity was given to the writ petitioner, which is in violation of the principles of natural justice, any order affecting the rights of the employees has to be issued only after providing a reasonable opportunity to the writ petitioner.

5.In this view of the matter, the present writ petition is a fit case for remittance. Accordingly, the order of recovery impugned in this writ petition issued by the first respondent in proceedings dated 12.02.2015 is quashed and the respondents are directed to issue show cause notice to the writ petitioner setting out the details and on receipt of the explanation/objections from the petitioner, a final order shall be passed on merits and in accordance with law, within a period of 12 weeks from the date of receipt of a copy of this order, without causing any undue delay.

6.Accordingly, the writ petition stands allowed. However, there is no order as to costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar(CCC)

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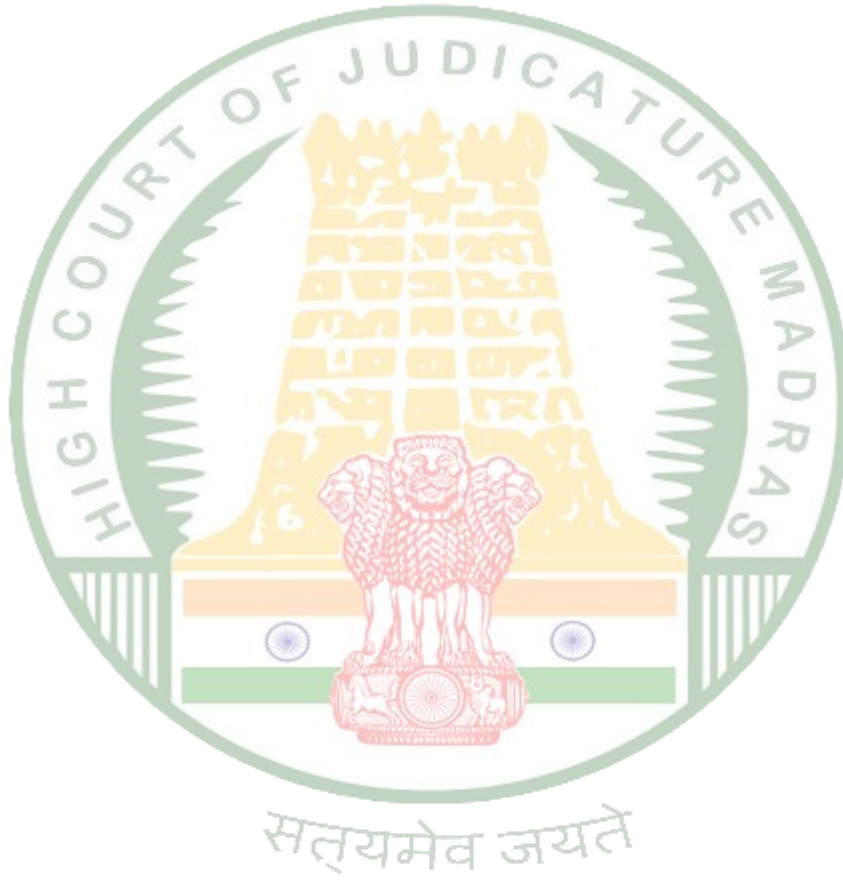
Sub-Assistant Registrar

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+1 CC to Mr.P. Sukumar,advocate sr 24722  
+1 CC to Mr.K.K.N. Ganeshan, advocate sr 25025.

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GSP (17/04/2018)



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