

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 4.12.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P. No. 19839 of 2018
and
W.M.P. No. 23296 of 2018

R. Thiruvengada Subbu ...Petitioner
Vs.

United India Insurance Co. Ltd.,
Rep. By its Asst. General Manager,
Personnel Dept.,
24, Whites Road,
Chennai - 600 014 ...Respondent

Prayer: Writ Petition filed under Article of 226 of the Constitution of India praying for issuance of a writ of mandamus directing the Respondent to disburse the terminal benefits such as gratuity staff provident fund privilege leave encashment, pension, pension commutation and superannuation gift etc., and benefits in accordance with retirement benefits with interest at 24% p.a. from 1.1.2017 till the date of final payment in lieu of petitioner's retirement dated 31.12.2016 as Officer from the office of the Respondent.

For Petitioner : Mr. S. Silambannan, Senior Counsel
for M/s. Kaavya Silambannan Asso.

For Respondent : Mr. Anand Gopalan for
M/s. T.S. Gopalan & Co.,

O R D E R

(Order of the Court was made by M.M.SUNDRESH, J.)

This writ petition has been filed seeking direction to respondent to disburse the terminal benefits pursuant to the retirement of the petitioner, who was working with them.

2. Learned counsel appearing for the petitioner submits that without any rhyme or reason, the benefits have been withheld, though as on today the Community Certificate of the petitioner to the effect that he belongs to Scheduled Tribe

stands. Therefore, the writ petition will have to be allowed.

3. Learned counsel appearing for the respondent would submit that the matter is pending before the State Level Scrutiny Committee. There is already an order passed by this Court in W.P. No.524 of 1998, dated 07.03.2006. Thus, no interference is required.

4. This court on earlier occasion in W.P.No.524 of 1998 was pleased to pass the following order:-

"When the issue relates to verification of the genuineness of the Community Certificate, came up for consideration before the Supreme Court in the case reported in (Madhurai Patil vs. Additional Commissioner Tribal Development (AIR 1995 SC 94) the Supreme Court had directed the State Government to constitute a committee with a power to go into the genuineness of such Certificate. Accordingly the State Government has constituted a committee in G.O.Ms.No.111, Adi Dravidar Tribal Welfare (ADW-10) Department dated 6.7.2005. The said committee has so far not cancelled the Community Certificate issued in favour of the petitioner. In that view of the matter the writ petition shall not stand in the way of the properly constituted committee by the State Government to go into the genuineness of the Community Certificate and in the event, the said certificate is declared not to be genuine, the respondents are entitled to take action. No costs."

5. Now, it appears that the matter is pending before the State Level Scrutiny Committee. Giving benefits to a person who got appointment on the ground that he belongs to the reserved community, and thereafter making recovery, if the same is found to be false, would amount to fraud on the Constitution. Admittedly, the matter is pending consideration with the State Level Scrutiny Committee and, therefore, the veracity of the community certificate should be decided at the earliest.

6. If due to lapse of time, the documents are not available with the State Level Scrutiny Committee, the respondent shall approach the State Level Scrutiny Committee within a period of two weeks and furnish the documents once again. The State Level Scrutiny Committee is directed to conclude the aforesaid proceeding within a period of three months thereafter. The respondent shall comply with the direction depending upon the satisfaction of the State Level Scrutiny Committee on the validity of Community Certificate.

7. In view of the above, the petition stand disposed of. No Costs. Consequently, the connected miscellaneous petition is closed.

8. The Registry is directed to mark a copy of this order to the Secretary, State Level Scrutiny Committee, Adi-Dravidar and Tribal Welfare (CV-I) Department, Government of Tamil Nadu, Chennai.

Ssm

04/12/2018

This Petition having been listed under the caption for being mentioned in pursuance of the order dated 04/12/2018 and in the presence of the above said Advocate this Court made the following Order:-

(Order of the Court of made by M.M.SUNDRESH, J.)

The above Writ Petition is posted today (10.12.2018) under the caption for "being mentioned" at the instance of the learned counsel for the petitioner.

2. On hearing the learned Senior Counsel for the petitioner, we do not find any reason to review the order passed on an oral request. However, depending upon the decision of the State Level Scrutiny Committee, the petitioner can always approach this Court. Similarly, liberty is given to the petitioner to have legal recourse in the event of an order passed by this Court on 04.12.2018 being not complied with.

Raa

10.12.2018

Sd/-

सत्यमेव जयते Assistant Registrar

//True Copy//

WEB COPY

Sub Assistant Registrar

To

1. The Asst. General Manager,
United India Insurance Co. Ltd.,
Personnel Dept.,
24, Whites Road,
Chennai - 600 014

2. The Secretary,
State Level Secretary Committee,
Adi-Dravidar and Tribal Welfare (CV-I) Dept,
Govt.of Tamil Nadu, Chennai

+1cc to Mr.T.S.Gopalan & Co, Advocate, S.R.No.83016

W.P. No. 19839 of 2018

RSI (CO)
GN(07/02/2019)



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