

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN  
AND  
THE HONOURABLE MR.JUSTICE P.D.AUDIKESSAVALU

W.A.No.88 of 2017

The Life Insurance Corporation of India Ltd.  
rep by its Senior Divisional Manager,  
Divisional Officer II, OS Department,  
C-47 Second Avenue, Anna Nagar,  
Chennai 40

... Appellant/Respondent

versus

1.A.K.Jayakumar

2.The Chairman,  
State Level Scrutiny Committee,  
Chennai. ... Respondent/Petitioner  
(2<sup>nd</sup> respondent impleaded vide order  
dated 7.12.2017)

Appeal filed against the order passed by this Court dated  
18.11.2016 in W.P.No.32595 of 2016.

WP No.32595 of 2016 : Writ Petition praying to direct the  
respondent to revise his scale of pay by extending all the  
allowances and increments from the date of his reinstatement and  
to disburse all terminal benefits such as pension and other  
benefits and arrears of increment and allowances with reasonable  
interest from the date of the dues.

For appellant : Mr.C.K.Chandrasekar

For Respondents : Mrs.A.Srijeyanthi, Spl.G.P.  
For 2<sup>nd</sup> respondent

Mrs.V.J.Latha, for 1<sup>st</sup> respondent

J U D G M E N T  
(made by K.K.SASIDHARAN, J.)

The 1<sup>st</sup> respondent was appointed as Assistant in the Life  
Insurance Corporation of India against a post reserved for  
Schedule Tribe. The community certificate was sent for

verification. The 1<sup>st</sup> respondent resorted to various proceedings to stall the verification process relating to his community status. The community certificate was ultimately canceled and the same resulted in cancellation of his appointment. Thereafter, without undergoing the verification process pursuant to the judgment in W.A.No.1533 of 2005 dated 8 August 2005, the appellant filed a Writ Petition for revising his pay scale and pay him terminal benefits. The Writ Petition was allowed by the learned Single Judge notwithstanding the pendency of the verification proceedings. The said order is under challenge at the instance of the employer.

2. We have heard the learned counsel for the appellant. We have also heard the learned counsel for the respondents.

3. The 1<sup>st</sup> respondent was given employment as Assistant in LIC. It was a vacancy earmarked for candidates belonging to Schedule Tribe. The 1<sup>st</sup> respondent claimed that he belonged to Schedule Tribe. On the basis of the community certificate, he was appointed. The certificate of the 1<sup>st</sup> respondent was sent for verification. The certificate was ultimately cancelled. The 1<sup>st</sup> respondent was terminated from service in view of the cancellation of the community certificate. The order was unsuccessfully challenged before the writ Court. The writ appeal filed by the appellant in W.A.No.1532 of 2005 was allowed and a Mandamus was issued to the statutory committee to verify the community status. The Division Bench by judgment dated 8 August 2005 in W.A.No.1533 of 2005, set aside the order of termination. The respondent was accordingly reinstated into service.

4. The verification of the community status of the 1<sup>st</sup> respondent was taken up by the State Level Scrutiny Committee. The petitioner adopted an attitude of non cooperation ever since he was reinstated into service. The verification process is therefore pending before the State Level Scrutiny Committee.

5. The respondent on attaining the age of superannuation, retired from service on 30 July 2006. Since terminal benefits were not paid on account of the pendency of the verification process, the respondent filed a Writ Petition in W.P.No.32595 of 2016. The 1<sup>st</sup> respondent prayed for an order to revise his pay scale and pay him all the terminal benefits.

6. The learned Single Judge after giving liberty to the employer to approach the State Level Scrutiny Committee for early completion of the scrutiny proceedings, allowed the Writ Petition and directed the Corporation to revise the pay scale and pay the 1<sup>st</sup> respondent all allowances and increments, including terminal benefits.

7. Since the matter is pending before the State Level Scrutiny Committee, we suo motu impleaded the Chairman, State Level Scrutiny Committee as second respondent in the intra court appeal.

8. This Court by order dated 7 December 2017 directed the State Level Scrutiny Committee to conclude the proceedings within a period of ten weeks. Thereafter, the Deputy Superintendent of Police SC/ST Vigilance Cell appeared before us and assured that the enquiry, as entrusted by the Vigilance Cell, would be completed within a period of two months. We therefore directed the State Level Scrutiny Committee to take a decision within two months after submission of report by the Vigilance Cell. The matter was adjourned periodically.

9. Since there was no progress, this Court by order dated 28 February 2019, directed the Chairman, State Level Scrutiny Committee, Department of Adi Dravidar Welfare, Secretariat, Chennai and Deputy Superintendent of Police, SC/ST Vigilance Cell, Chennai to appear in person.

10. When the appeal is taken up for hearing today, the Chairman, State Level Scrutiny Committee and Deputy Superintendent of Police appeared before us and jointly submitted that the 1<sup>st</sup> respondent is trying his level best to drag on the proceedings. According to the Chairman, State Level Scrutiny Committee, the 1<sup>st</sup> respondent failed to appear in spite of receiving notice. It was further submitted that in view of the non cooperation from the 1<sup>st</sup> respondent, the enquiry could not be completed within the time prescribed by this Court.

11. The Vigilance Cell appears to have conducted enquiry. The 1<sup>st</sup> respondent made a request before the State Level Scrutiny Committee to permit him to cross examine the witnesses examined by the Deputy Superintendent of Police. The State Level Scrutiny Committee is prepared to summon the witnesses for cross examination. However, the 1<sup>st</sup> respondent avoided the proceedings to ensure that no adverse order is passed against him.

12. The enquiry is now pending only on account of the indifferent attitude of the 1<sup>st</sup> respondent. The verification proceedings should be completed during the life time of the 1<sup>st</sup> respondent as otherwise, his legal representatives would also claim the benefit of reservation.

13. The issue regarding the community status of the 1<sup>st</sup> respondent has not become final. The matter is pending before the State Level Scrutiny Committee. The community certificate was earlier cancelled by the Competent Authority. The 1<sup>st</sup>

respondent was reinstated into service only on account of the order passed by this Court, setting aside the order canceling the community certificate. The fact that this Court set aside the order would not stand in the way of verifying the community status of the 1<sup>st</sup> respondent in view of the liberty granted by this Court.

14. The 1<sup>st</sup> respondent filed the Writ Petition only after his retirement. The prayer is to revise his pay scale and to pay him all the retirement benefits.

15. The issue regarding the community status of the 1<sup>st</sup> respondent should be decided at the first instance. The 1<sup>st</sup> respondent is interested only to avail the benefit. He is avoiding the verification process. There is no question of revising the pay scale after the retirement. The employer kept the retirement benefits only on account of the pendency of the verification proceedings. The 1<sup>st</sup> respondent must cooperate with the authorities for an early resolution of the issue. The order passed by the learned Single Judge directing the appellant to pay the retirement benefits is taken as a positive factor to stall the proceedings now pending before the State Level Scrutiny Committee.

16. The 1<sup>st</sup> respondent was reinstated into service pursuant to the order passed by this Court. There is a clear understanding that the 1<sup>st</sup> respondent would cooperate for an early disposal of the matter. The 1<sup>st</sup> respondent, taking advantage of the earlier Court proceedings, tried his level best to stall the proceedings. The payment of retirement benefits would ultimately depend upon the orders to be passed by the State Level Scrutiny Committee.

17. The order dated 18 November 2016 is set aside. The Writ Petition is dismissed. We direct the appellant to issue notice to the 1<sup>st</sup> respondent for his appearance on a particular day. The 1<sup>st</sup> respondent must be given an opportunity to cross examine the witnesses whose statements were recorded by the Vigilance Cell. The witnesses should be summoned on a particular day. The 1<sup>st</sup> respondent must cross examine the witnesses on the very same day without seeking adjournment. In case the 1<sup>st</sup> respondent failed to appear before the State Level Scrutiny Committee in spite of giving reasonable time, it is open to the committee to pass appropriate orders on merits and as per law.

18. The intra court appeal is allowed with the above observation. No costs. Consequently, connected M.P.s, are closed.

Sd/-  
Assistant Registrar(Insp.cell)

//True copy//

Sub Assistant Registrar

tar

To  
1.The Chairman,  
State Level Scrutiny Committee,  
Chennai.

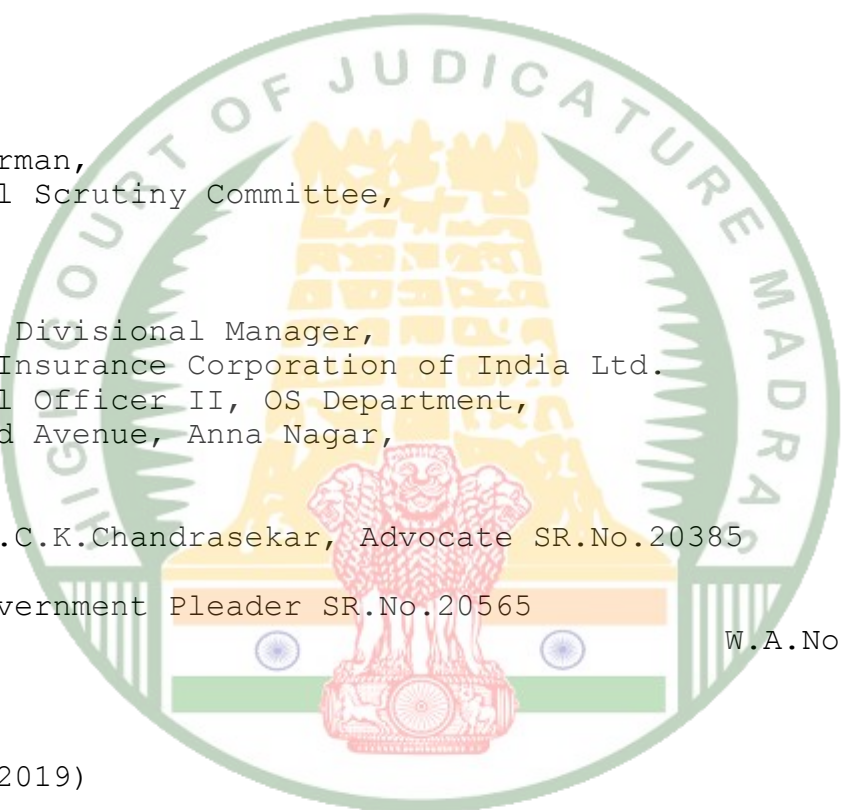
Copy To  
The Senior Divisional Manager,  
The Life Insurance Corporation of India Ltd.  
Divisional Officer II, OS Department,  
C-47 Second Avenue, Anna Nagar,  
Chennai 40

+1cc to Mr.C.K.Chandrasekar, Advocate SR.No.20385

+1cc to Government Pleader SR.No.20565

W.A.No.88 of 2017

MN(CO)  
GMY(27/05/2019)

The seal of the High Court of Judicature Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital on top. The gopuram is flanked by two green palm trees. The entire emblem is set against a white background with a green border. The text "HIGH COURT OF JUDICATURE MADRAS" is written in a circular path around the emblem. Below the emblem, the Sanskrit motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

सत्यमेव जयते

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