

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2020

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THE HONOURABLE **MR.JUSTICE K.KALYANASUNDARAM**

Contempt Petition No.1340 of 2018

Dr.K.Rayar
Petitioner

Vs.

- 1.Shri R.Damodaran,
The Zonal Manager,
Life Insurance Corporation of India,
Southern Zonal Office, LIC Building,
Anna Salai, Chennai - 600 002.
- 2.Shri.Y.Venkateswarlu,
The Senior Divisional Manager,
Life Insurance Corporation of India,
Divisional Office, Jeevan Prakash, Arcot Road,
P.B.No.423, Vellore - 632 004.
- 3.Shri S.V.Sathyannarayana,
Manager (E & OS) DM,
Life Insurance Corporation of India,
Divisional Office, Jeevan Prakash,
Arcot Road, P.B.No.423, Vellore - 632 004.
- 4.Shri.T.Muthian,
The Branch Manager,
LIC of India, Branch Office,
East Pandy Road,
Villupuram - 605 602.

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Respondents

Prayer: The contempt petition filed under section 11 of contempt of Courts Act, to punish the respondents for not obeying the order passed in M.P.Nos.1 and 2 of 2015 in W.P.No.41013 of 2015, dated 29.12.2015.

For Petitioner : Mr.D.Prabhu Mukunth Arunkumar

For Respondents : Mr.C.K.Chandrasekar
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ORDER

This contempt petition has been filed alleging wilful disobedience of the order passed in M.P.Nos.1 and 2 of 2015 in W.P.No.41013 of 2015, dated 29.12.2015.

2. The brief facts of the case would run thus:-

The petitioner was originally appointed as an Agent in the respondent-Corporation in the year 1981. Subsequently, he was promoted and was serving as Development Officer, since 1987. Thereafter, he was removed from service, vide order dated 12.04.2005. The order of removal was set-aside by this Court in W.P.No.29284 of 2005 and the same was confirmed by the Division Bench in W.A.No.1490 of 2008 and also by the Hon'ble Apex Court in Civil Appeal Nos.5186-5187 of 2011. After dismissal

of the Civil Appeals, the petitioner was reinstated into service, vide order dated 19.08.2015. It appears that the petitioner filed W.P.No.34856 of 2015 claiming other benefits during the interregnum of the dismissal and the reinstatement. The present Writ Petition No.41013 of 2015 was filed challenging the recovery of terminal benefits paid to the petitioner, i.e., gratuity amount of Rs.1,30,500/-. This Court, while ordering notice of motion on 29.12.2015, granted an order of status quo. It is alleged by the petitioner that despite the interim order granted on 29.12.2015, the respondents have recovered the gratuity amount.

3. In the counter affidavit, it is stated that the petitioner's gratuity was settled in the year 2005, upon his dismissal from service. The petitioner was reinstated into service, vide order dated 19.08.2015 and with the consent of the petitioner, gratuity amount to the tune of Rs.99,244/- was adjusted from lump sum due to him. It is further stated that the respondents formed a Special Committee with regard to the monetary claim made by the petitioner and in the meeting held on 01.02.2016, the petitioner also participated. It was clarified during the meeting that the gratuity amount and other benefits were adjusted towards the outstanding housing loan and car loan. The petitioner agreed to the clarification of the

respondents and further gave an undertaking and repaid the balance amount of Rs.20,085/- as per the letter of the respondents, dated 15.10.2008. It is further stated that the petitioner had already given an undertaking at the time of availing housing loan for adjusting PF, gratuity accumulation towards outstanding housing loan. It is further stated that the petitioner agreed to withdraw the Writ Petition.

4. Mr.D.Prabhu Mukunth Arunkumar, learned counsel for the petitioner submitted that the respondents have no authority to adjust the gratuity amount even though the petitioner could have given consent for the same. It is further submitted that the respondents failed to follow the agreement in entirety and hence, the petitioner did not withdraw the Writ Petition.

5. *Per contra* Mr.C.K.Chandrasekar, learned counsel appearing on behalf of the respondents would submit that this contempt petition has been filed for alleged wilful violation of the order passed in the interim petition. According to the learned counsel, the petitioner was again dismissed from service in the year 2018 and hence, the main Writ Petition itself has become infructuous. He further added that when the petitioner was dismissed from

service in the year 2005, he had an outstanding in the housing loan and car loan. Upon dismissal from service, the amounts due to the petitioner was adjusted towards outstanding and after reinstatement into service, the petitioner is liable to pay the gratuity amount, since the gratuity amount is a source of fund of retirement and the same will be settled in lump sum at the time of retirement from service. It is further stated that the petitioner accepted for remitting the gratuity already settled to him by way of adjustment i.e., deduction from future due payable to him and now he cannot be allowed to blow hot and cold at the same time.

6. Heard the rival submissions and perused the materials available on record.

7. In the matter on hand, it is not disputed that the petitioner was removed from service in the year 2005 and after the finality reached, the petitioner was reinstated into service in the year 2015. It is the case of the petitioner that the respondents have no authority to deduct or adjust the gratuity amount payable to him. According to the respondents, the petitioner gave an undertaking at the time of availing housing loan for adjustment of gratuity and PF accumulation. It is their further case that the petitioner had

also accepted and agreed for the adjustment of gratuity towards the housing loan and car loan in the year 2015. It is seen that the main Writ Petition has been filed challenging the recovery notice dated 12.12.2015.

8. In the light of the above facts, I find no wilful or deliberate violation of the order dated 29.12.2015 passed in M.P.Nos.1 and 2 of 2015 in W.P.No.41013 of 2015. Hence, the Contempt Petition is closed, giving liberty to the parties to agitate their claim in the main Writ Petition. No costs.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

rns

//Certified to be true copy//

Dated at Madras this the day of 2020.

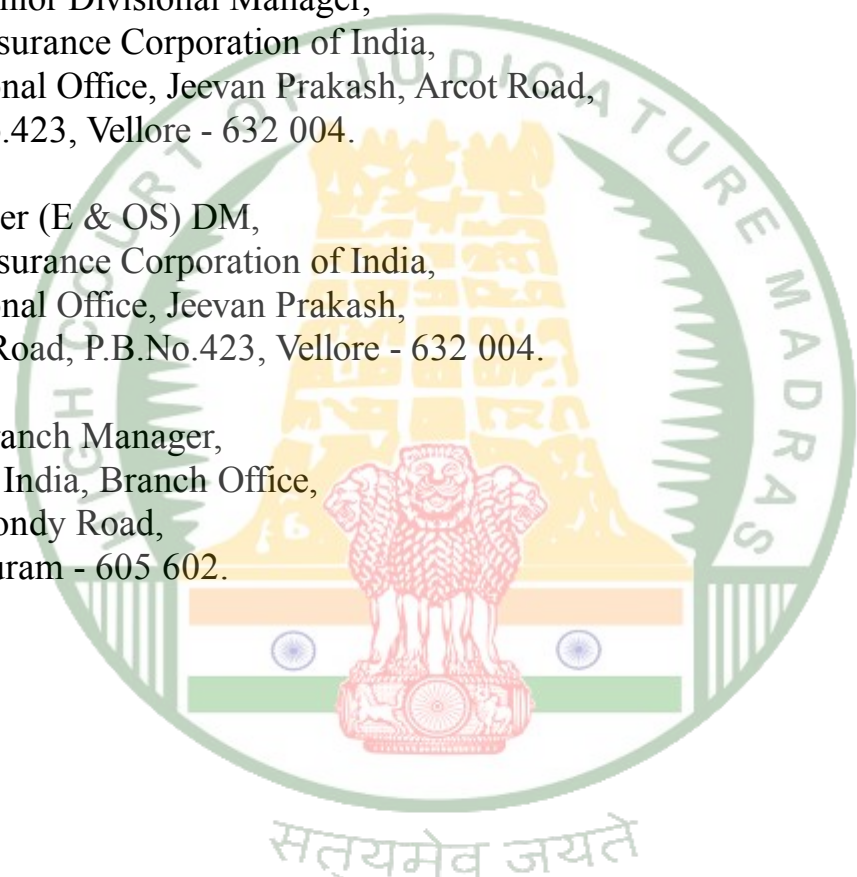
सत्यमेव जयते COURT OFFICER(O.S.)

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SMI/16.03.2020

To

- 1.The Zonal Manager,
Life Insurance Corporation of India,
Southern Zonal Office, LIC Building,
Anna Salai, Chennai - 600 002.
- 2.The Senior Divisional Manager,
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