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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 13.12.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P(MD) No. 13332 of 2014
and
M.P(MD) .Nos.1 to 3 of 2014**

1. M. Surendran (died)
2. Sundari
3. Bhuvaneshwaran
4. Jothimani
5. Bhoopathy
6. Malai

... Petitioners

(P2 to P6 are substituted vide
Court order dated 24.11.2021 in
WMP(MD) .No.5879 of 2017)

..Vs..

1. The Chairman / Managing Director,
United India Insurance Company Ltd.,
No.24, Whites Road, Chennai.
2. The Deputy General Manager,
United India Insurance Company Ltd.,
No.24, Whites Road, Chennai.
3. The Regional Manager,
United India Insurance Company Limited,
7A, West Veli Street,
Madurai - 625 001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of to issue a Writ of Certiorarified Mandamus to call for the records of the dismissal order No. Ho. G - 48, (CBI): 16:2010, dated 23.03.2010 passed by the 2nd respondent and quash the same and direct the respondents to reinstate the petitioner with full back wages and all other benefits.



For Petitioners

: Mr.M.Kumar

For Respondents

: Mr.G.Prabhu Rajadurai

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ORDER

The present Writ Petition is filed to quash the impugned order passed by the 2nd respondent and direct the respondents to reinstate the petitioner with full back wages and all other benefits.

2. The petitioner joined in the respondent Company as a Development Officer on 10.10.1983 in City Branch -1, Madurai and his service were confirmed on 01.11.1984, then, promoted as Assistant Administrative Officer on 07.02.1990, then as Administrative Officer in the Divisional Office -I, Madurai in the year 1997. Subsequently, transferred to Divisional Office - IV, Madurai for assisting the third party Motor Accident Claims Department to the Divisional Manager. In the year 2003, he was designated as Assistant Manager in the Divisional Office, Palakkadu and thereafter, transferred to Divisional Office at Sivakasi as Assistant Manager in the year 2006 and then, transferred to Divisional Office, Virudhunagar as Assistant Manager in 2007. The petitioner was working in the Divisional Office - IV at Madurai during 1997 as Administrative Officer and he referred the MCOP (Motor Accidents Claims Tribunal) cases to the Lok Adalat for settlement. The allegation against the petitioner is that inspite of violation in the policy condition, the cases were referred to settlement. Then CBI Anti-Corruption Bureau, Chennai registered a criminal case against the petitioner under sections 120(b) IPC and Section 13(2) r/w. 13(1)(D) of Prevention of Corruption Act, 1988 r/w. Section 120(B) and 420 IPC. The CBI filed case before the Special Judge, Madurai in C.C.Nos.11 to 17 of 2004 and vide Judgment dated 18.12.2009 the petitioner was acquitted. However, in C.C.No.10 of 2004, the petitioner was convicted under Section 420 IPC and under other two Sections 120(b) IPC and Section 13(2) r/w. 13(1)(D) of Prevention of Corruption Act. The petitioner has filed an appeal in CrI. A. No. 430 of 2009 before this Court and the CBI has also filed CrI.A.No.301 of 2010 against his acquittal. In the meanwhile, the respondents initiated disciplinary proceedings under the CDA Rules General Insurance (Conduct, Discipline and Appeal) Rules, 1975. The petitioner was terminated from service on 23.03.2010. Thereafter, the petitioner was acquitted in the criminal appeal vide order dated 12.11.2014. Based on the acquittal in the criminal proceedings the respondents have reinstated the petitioner. In the meanwhile, the petitioner died in the year 2015. Thereafter, legal



heirs substituted themselves in the proceedings.

3. The respondents filed counter stating the criminal appeal was pending and based on the conviction the petitioner's service was terminated.

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4. Heard the learned counsel appearing on either side and perused the materials available on record.

5. The prayer in the Writ Petition is to quash the termination order dated 23.03.2010. The contention of the petitioner is that the petitioner was acquitted from all criminal cases on 12.11.2014 and therefore he is entitled to be reinstated into service. Pending writ petition the respondents submitted that the petitioner was reinstated into service.

6. Now the issue of backwages alone ought to be considered in this writ petition. The contention of respondents is that the petitioner is not entitled to backwages and relied on the Judgment of the Hon'ble Supreme Court rendered in 1996 (11) SCC 603 **'Ranchhodji Chaturji Thakore Vs. Superintendent Engineer, Gujarat Electricity Board'**, wherein it has been stated as under:

"The question of backwages would be considered only if the respondents have taken action by way of disciplinary proceedings and the action is found to be unsustainable in law and he was unlawfully prevented from discharge the duties. In that context his conduct becomes relevant. Each case requires to be considered in its own background. In this case, the petitioner has involved in Crime, though he was later acquitted, he had disabled himself from rendering the service on account of conviction and incarceration in jail. Under these circumstances the petitioner is not entitled to payment of backwages."

7. On perusal of the entire records, it is seen that the petitioner has served as Administrative Officer in the United India Insurance Company Limited. He was assigned work to refer the cases to Lok Adalat. The allegation against the petitioner is that he has referred some of the cases to Lok Adalat and in those cases the Policy had expired. However, when the query was posed to the respondents, whether the Administrative Officer is the authority to take a final decision to refer the case to Lok Adalat, the respondents stated that the higher authorities will take a final decision not the Administrative Officer. Moreover the petitioner died on 22.10.2015. Therefore, this Court to meet the ends of justice is of the considered opinion that the petitioner is entitled to 50% of the backwages. Hence, this Court is setting aside the impugned order passed by the second respondent, dated 23.03.2010 and direct the respondents to pay the terminal benefits and 50% of backwages to



the family of the deceased. The said exercise shall be disbursed within a period of four weeks from the date of receipt of a copy of this order.

8. In the result, the Writ Petition is allowed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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//2022

Sub Assistant Registrar (CS-)

trp

To

1. The Chairman / Managing Director,
United India Insurance Company Ltd.,
No.24, Whites Road, Chennai.
2. The Deputy General Manager,
United India Insurance Company Ltd.,
No.24, Whites Road, Chennai.
3. The Regional Manager,
United India Insurance Company Limited,
7A, West Veli Street, Madurai - 625 001.

+1 CC to M/s.M.KUMAR, Advocate (SR-38487[F] dated 14/12/2021)

+1 CC to M/s.G. PRABHU RAJADURAI, Advocate
(SR-38552[F] dated 14/12/2021)

W.P(MD) No. 13332 of 2014 and
M.P(MD).Nos.1 to 3 of 2014
13.12.2021

SP/31/01/2022/4P/6C