



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.13136 of 2020

S. Mahadevan

.. Petitioner

Vs.

The General Manager,
Personnel Department,
Head Office,
United India Insurance Company Ltd.,
No. 24, Whites Road,
Chennai-600014.

... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondent dated 06.07.2020 vide HO HR 1168 2020 quash the same and to direct the respondent herein to reinstate the Petitioner into the service of the company with the continuity of service in the company along with back-wages and all other benefits from the date of suspension (i.e) 09.02.2000 treating as pension Optee Employee.

For Petitioner : Mr.A. Mohan

For Respondent : No representation

ORDER

The case of the petitioner is that the petitioner was appointed as an employee in the cadre of Assistant (Typist) in the office the respondent/Insurance Company. While the petitioner was working in the respondent/Insurance Company, he was arrested on 19.02.2000 in connection with the criminal cases in C.C.Nos. 25/2008 to 35/2008 for the offence under Section 5 of Tamil Nadu Protection of Interest of Depositors Act (TNPID Act), 1997 and later released on bail on 20.04.2000. In the meantime , the respondent insurance company has initiated disciplinary proceedings and framed charges for unauthorised



absent for duty for 89 days vide charge memo dated 19.11.1999 and based on the enquiry report dated 20.09.2001, the petitioner was removed from service. Later the petitioner was acquitted from the criminal case. Based on the acquittal, the petitioner made representation to the respondent for reinstatement into service and the same was rejected by the respondent/insurance company. Thereafter the petitioner has filed a writ petition before this Court, the said writ petition was dismissed by this Court. Subsequent to the dismissal of the writ petition, the Writ Appeal and SLP before Hon'ble Supreme Court preferred by the petitioner were also dismissed. Thereafter, citing acquittal before the Criminal Court, the petitioner made representation dated 20.03.2020, the said representation was also rejected by the respondent by impugned order dated 06.07.2020. challenging the same, the present writ petition is filed.

2. According to the learned counsel for the petitioner all the criminal cases registered against the petitioner and his family members have been duly tried by the competent criminal court i.e TNPID Court at Madurai in C.C.Nos. 25 of 2008 to 35 of 2008. After due trial, the petitioner has been acquitted by judgment dated 28.04.2017. On the date of removal of service, criminal cases were pending against the petitioner, now the petitioner has been exonerated from the criminal offences, therefore the petitioner is entitled to the reinstatement.

3. The learned counsel for the petitioner has further submitted that the exparte order of removal of service was passed on the ground of pendency of criminal cases and also for the unauthorised absence of duty for 89 days. The Criminal Court after due trial, had acquitted the petitioner from the offences. The petitioner has made detailed explanation to the respondent for the unauthorised absence of duty. The respondent without considering the explanation submitted by the petitioner and the directions of this Court made in W.P.No. 10188 of 2018, dated 11.03.2020, has rejected the request made by the petitioner.

4. Heard the learned counsel appearing for the petitioner and perused the materials available on record. No representation for the respondent.

5. Admittedly, while in service, the petitioner was arrested on 19.02.2000 in connection with the criminal cases in C.C.Nos. 25/2008 to 35/2008 for the offence under Section 5 of Tamil Nadu Protection of Interest of Depositors Act (TNPID Act),



1997 and later released on bail on 20.04.2000. In the meantime, the respondent insurance company has initiated disciplinary proceedings and framed charges for unauthorised absent for duty for 89 days vide charge memo dated 19.11.1999 and based on the enquiry report dated 20.09.2001, the petitioner was removed from service. Later the petitioner was acquitted from the criminal case. Based on the acquittal from the criminal case, the petitioner claimed reinstatement into service before the respondent. Since the said request came to rejected, the petitioner has approached this Court by way of writ petition and writ appeal, since this Court has rejected the request made by the petitioner, he preferred a SLP before the Hon'ble Supreme Court, the SLP was also dismissed.

6. Further on perusal of the impugned rejection order, it is clearly stated that the acquittal of the petitioner in the said criminal cases is not on the basis of benefit of doubt, but is an honourable acquittal. This aspect has got nothing to do with the actions taken by the respondent-insurance company under CDA Rule. As per provisions of the said Rules, the Disciplinary Authority imposed the penalty of 'Removal from service' in terms of Rule 23(g), vide order dated 15.11.2001.

7. It is also clear that the charges framed by the respondent-insurance company described the misconduct on the part of the petitioner, which are grave in nature. The said misconduct was established in a detailed enquiry conducted by the disciplinary authority as per Rules and imposed punishment of removal of service. The said order of punishment was also confirmed by the Hon'ble Supreme Court, therefore the prayer sought for by the petitioner to consider for reinstatement into service based on the acquittal in criminal case cannot be considered, as there is no merits.

8. Accordingly, the writ petition stands dismissed as devoid of merits. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

The General Manager, Personnel Department,
Head Office,
United India Insurance Company Ltd.,
No. 24, Whites Road, Chennai-600 014.

+1cc to Mr.A.Mohan, Advocate SR.No.22083

W.P.No. 13136 of 2020

SKM(CO)
GN(04/05/2022)