



W.P No.1474 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2023

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P No.1474 of 2020

and

WMP.No.1744 of 2020

S.Kannan

... Petitioner

Vs.

1.The Chairman cum Managing Director
United India Insurance Company Ltd,
No.24, Whites Road, Chennai 600 014.

2.The Assistant General Manager
Head Office, United India Insurance Co Ltd,
Chennai 600 014.

3.The Regional Manager,
United India Insurance Co Ltd.,
Regional Office,
No.364-367, Dr.Nanjappan Road,
Coimbatore 641 018.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to disburse the gratuity and provident fund benefits due to the petitioner in the post of



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Development Officer Grade I, along with the penal interest for belated payment at the rate of 12% per annum from the date on which the amount became due till date of disbursement and consequently direct the respondents to consider the petitioners case for grant of compassionate allowance as per Rule 32 of the General Insurance Employees Pension Scheme 1995 within a time frame fixed by this Court.

For Petitioner : Mr.Lourdu Paul Maurya

For Respondents : Mr.T.Pushkin Rajkumar for
Mr. V.Perumal.

ORDER

This Writ Petition has been filed seeking to disburse the gratuity and provident fund benefits due to the petitioner in the post of Development Officer Grade I, along with the penal interest for belated payment at the rate of 12% per annum from the date on which the amount became due till date of disbursement and consequently direct the respondents to consider the petitioners case for grant of compassionate allowance as per Rule 32 of the General Insurance Employees Pension Scheme 1995 within a time frame fixed by this Court.



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2. Heard, Mr.Lourdu Paul Maurya, learned counsel for the petitioner and Mr.T.Pushkin Rajkumar, learned counsel assisted by Mr.V.Perumal for the respondents and perused the materials available on record.

3. It is the submission of the learned counsel for the petitioner that the petitioner was imposed with a punishment of removal of service. The said order was under challenge before the Division Bench by filing a Writ Petition in W.P.No.19291 of 2004 and in which an order has been passed on 03.08.2009 with an observation that the punishment imposed on the petitioner is not only disproportionate but also harsh and excessive. Hence the punishment has been modified from removal of service to reduction of basic pay in one step in the time scale applicable to the petitioner. As against a Writ Appeal in W.A.No.1538 of 2009 preferred by the department challenging the above said modified order and that has been allowed on 01.02.2011, the petitioner has filed another writ petition in WP.No.4279 of 2016 seeking to consider the representation of the petitioner for payment of gratuity and provident



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fund and all other entitlements in which an order has been passed to consider the representation.

4. The learned counsel for the respondent submitted that the representation of the petitioner was considered and he had been paid all benefits for which he is entitled to.

5. However, the learned counsel for the petitioner submitted that the calculation of the gratuity and provident fund was made based on the last drawn pay of the petitioner in the Grade II and not Grade I. The calculation sheet now filed before this Court would reflect the total amount that is due to the petitioner. It also shows that the petitioners gratuity has been worked out according to his last pay drawn applicable to Development Officer Grade I. So the petitioner cannot have any grievance on that score.

6. The attention of this Court was drawn to the loan application submitted by the petitioner, wherein the petitioner himself has admitted



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that his last drawn pay was on the basis pay of Rs. 10,030/-. The calculation produced before the court would also show that the petitioner's gratuity has been worked out only as per the admitted last drawn pay as on December 2002.

7. Since all the payments have been worked out only in accordance with last drawn pay of the petitioner, nothing remains for consideration. It is also pertinent that on 30.10.2023 on hearing the representation of both sides learned counsels this court has recorded the following:

“The petitioner was removed from service on 11.07.2003; however, his terminal benefits were not settled and hence he has filed this Writ Petition seeking directions.

2. The learned counsel for the respondents submitted that for the very same relief, the petitioner had filed a Writ Petition in W.P.No. 42749/2016 and this Court has passed an order giving direction to consider the representation of the petitioner on merits. The respondents had considered the petitioner's representation, and thereafter, they passed an order stating that the petitioner is liable to pay a sum of Rs.1,18,656/- towards the Cooperative society's loan availed by him.

3. Hence, the submission of the respondents is that the petitioner is not able to get any terminal benefits in view of the existing loan and the amount that might be due to him has been



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appropriated towards the pending loan and is now the balance loan due is being raised. ”

8. So the above facts would only show that the petitioner who has to pay the dues of his loan to the respondent and not the *vice versa*.

Hence, this Writ petition is **dismissed**. No costs. Consequently, the connected miscellaneous petition is closed.

08.11.2023

Index : Yes

Internet : Yes/No

jrs



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R.N.MANJULA, J.

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