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W.P.No.2291 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

W.P.NO.2291 OF 2022

AND

W.M.P.NO.2457 OF 2022

R.H. Kingslay

... Petitioner

VS.

1. Indian Immunological Limited,
Represented by its Deputy Managing Director,
A4, Jubilee Hills,
Hyderabad 500033,
Telengana.

2. Human Biological Institute,
A Division of Indian Immunological Limited,
Kozipannai, Pudumund,
Udhagamandalam,
Ooty.

... Respondents

PRAYER: Writ Petition filed under Section 226 of the Constitution of India to issue a Writ of Certiorari or any other appropriate writ, order or direction to call for the records of the enquiry report dated 03.12.2021 and consequential proceedings dated 31.12.2021 on the file of the 1st Respondent and quash the same as wholly arbitrary, unjust and without jurisdiction.



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For Petitioner : Mr. Sharath Chandran
For Respondent-1 : Mr. S. Silambannan
Additional Advocate General
Assisted by Mr.K.Sathish
For Respondent-2 : Mr.M.S. Krishnan
Senior Counsel for
Ms.Anandhalakshmi

ORDER

This Writ Petition has been filed challenging the punishment of dismissal of the petitioner from Fixed Term Employment.

2.The following charges have been framed against the petitioner:

“i. You have started your own firm VK Constructions with your friend and neighbour in February 2021, and that you have control over the works & contract labour of that Company.

ii. You have numerous financial transactions with the supervisor working with M/s VK Constructions, Mr.Pitabas, directly from your HDFC Bank Account No.12701050000785.



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iii. HBI Ooty has engaged M/s Andavar Industries & M/s SR23 Company for various fabrication works. You have been lending/funding money to Mr. Gandhi Suresh Raja who is the proprietor of M/s SR23 Company. You have received gifts and money from Mr.Suresh & his Company.

iv. You have received Rs.10,000/- from M/s AR Systems, Chennai in the month of March, 2021, and a sum of Rs.25,000/- from M/s Air Guru, into your bank account. Both M/s AR Systems and M/s Air Guru are active vendors for HBI, Ooty.

v. Further, it has also been reported that you have received a sum of Rs.2,00,000/- through your wife Ms. Mounica Nancy Kingslay's HDFC Bank account No 50100373556387, from M/s Multitech System Automation, Chennai, who is an active vendor for HBI, Ooty.”

3.The charges (i) to (iii) have not been proved. However, the Enquiry Officer held that charges 4 and 5 have been proved and based on that he was dismissed from the service. Though the petitioner was working more than 23 years, he has not made permanent and only contractual appointment has been made. Last such appointment was made on 01.04.2020 for a period



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of three years as per the appointment letter dated 29.10.2020. Though the contract stipulates that the company reserves the right to terminate his service by giving one month's notice or by paying one month's salary in lieu thereof, disciplinary proceedings has been initiated against the petitioner.

4.It is submitted by the learned counsel for the petitioner that he is not likely to continue as contract employee and instead of dismissal order he may be relieved, accepting his resignation. In this regard, the petitioner has also filed an affidavit dated 16.10.2023, wherein it is stated as follows:

“a. That this Hon'ble Court may be pleased to record my request to resign from the services of the 2nd respondent Institute, and a relieving order to that effect be issued by the respondents.

b. I undertake that I will not seek re-employment with the 1st or 2nd respondent Institute in future.

c. I Undertake to oblige by order of this Hon'ble Court and shall not reagitate this issue.

4. I respectfully pray that upon acceptance of my



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resignation, this Hon'ble Court may be pleased to direct the respondents to pay me the statutory benefits and other dues until 31.12.2021. I undertake not to claim any benefits from the date of the impugned order i.e., 31.12.2021.”

5.It is pertinent to note that the charges have been proved only on the basis of his explanation. No documents have been placed by the Department to prove the charges. However, taking note of explanation of the petitioner and his side documents, holding that there are some money transaction with the vendors of the company, punishment of dismissal was imposed on the petitioner. The petitioner's request is to relieve him from the services of the respondents, accepting his resignation letter.

6.Learned Senior counsel Mr.M.S.Krishnan appearing for the second respondent has fairly submitted that the resignation will be accepted from the date of impugned order and the petitioner will be paid all his monetary benefits which is accumulated in G.P.F., besides an additional sum of Rs.5 lakhs will also be paid to the petitioner. Learned Senior Counsel also filed an affidavit in which it is stated as follows:



“Hence, the respondent undertakes to pay an amount of Rs.5,00,000/- (including Rs.3,36,505/-) towards full and final settlement.

a.The petitioner should not make any further demand or claim towards any other payment under any head nor seek for any reinstatement or employment with the respondents.

b.It is submitted that this Respondent is a law-abiding entity and follow all the statutory compliance without any deviation. As on the last working day of the writ petitioner i.e., 31.12.2021, all the statutory amounts (Provident fund, Gratuity) were settled, and nothing is due and payable by the respondent.

c.For any reason, if any specific statutory amount is not received by the petitioner from the concern statutory authorities, respondent undertake to provide necessary support.”

7.Today, learned counsel for the respondents filed a communication of the respondent wherein it is stated as follows:



“Super Annuation Scheme (SAS) is a Scheme where employee salary will be deducted and deposited by the employer into a separate Policy provided by the Life Insurance Corporation of India (LIC).

Such scheme was stopped from 01.11.2021.

The amount contributed by the petitioner as on last day of scheme has not become Rs.10,06,149/- with accumulated interest as on 15.11.2023.

This amount is in the name of the petitioner (RH Kingslay) lying with the LIC. The petitioner is at liberty to approach LIC for withdrawal of the same. In this regard, we undertake to support the petitioner for the withdrawal of such amount.”

8.In such a view of the matter, this Court is of the view that since both sides have agreed and settled the issue, this Court will not go into the merits of the disciplinary proceedings. Accordingly, the entire disciplinary proceedings and dismissal order stand quashed. The respondents shall accept the resignation letter of the petitioner from the date of impugned order i.e., from 31.12.2021 and pay all retiral benefits as agreed in the affidavit within a



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period of one month from the date of receipt of copy of this Order. The affidavits filed by the petitioner and the respondents are taken on file and shall form part of the record.

9. With the above direction this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

17.11.2023

Index : Yes/No
Neutral Citation : Yes/No
Speaking / Non-speaking order
TK

To

1. The Deputy Managing Director
Indian Immunological Limited
A4, Jubilee Hills,
Hyderabad – 500 033. Telengana..
2. Human Biological Institute
A Division of Indian Immunological Limited,
Kozipannai, Pudumund,
Udhagamandalam, Ooty.



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N. SATHISH KUMAR, J.

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