



W.P.No.22157 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	:	11.01.2023
PRONOUNCED ON	:	28.04.2023

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.No.22157 of 2013
and W.M.P.No.1146 of 2020
W.M.P.No. 11756 of 2019

A.S.Chandrasekaran

... Petitioner

Vs.

1.Chairman-cum-Managing Director
United India Insurance Company Limited
Head Office: No.24, Whites Road,
Chennai 600 014.

2.General Manager
Personnel Department,
United India Insurance Company Limited
Head Office:No.24, Whites Road,
Chennai 600 014.

3.Chief Executive
General Insurance Public Sector
Undertaking, GIPSA, 3rd Floor
Jeevan Vihar rear portion
New Delhi 110 001



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4. Secretary
Ministry of Finance,
Department of Economic Affairs
Insurance Division, 'A' Wing
2nd Floor, Lok Nayak Bhavan
Khan Market, New Delhi 110 003

5. Secretary, (Financial Sector)
Insurance Division, Jeevan Deep Building
Department of Economic Affairs
Sansad Marg, New Delhi

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings in HO:HR:44 dated 30.09.2011 read with HO:PEN:486:2006 dated 07.11.2006, HO:PER:MHR:2656/2002 dated 17.07.2002, HO:PER/MVK/629/2001 dated 12.02.2001 on the file of the 1st respondent herein and quash the same and direct the respondents to grant pension under the General Insurance(Employees) Pension Scheme 1995 pursuant to the representation dated 16.03.2013 in terms of order rendered by the Hon'ble Apex Court in C.A.No.6013 of 2011 dated 28.07.2011.

For Petitioner : Mr.M.Ravi
for Mr.K.Moorthy

For Respondents : Mr. S.K.Krishnamurthy for R1
Mr.J.S.Baskaran for R2.



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ORDER

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2. The facts of the case is that the petitioner was appointed in the 1st respondent company/United India Insurance Company Limited as Stenographer on 13.11.1968 and thereafter, he was promoted to the post of Assistant Administrative Officer. The 1st respondent issued a circular calling for applications from eligible officers who are employed under them, for the post of Deputy General Manager at Ken India Assurance Company Limited, Kenya. The petitioner had applied to the said post and he was appointed as Deputy General Manager for a normal period of three years at Ken India Assurance Company Limited, Kenya. Thereafter, his deputation was further extended by the 1st respondent without his willingness for a period of 3 years, 3 months beyond the normal tenure of deputation of 3 years. The petitioner has put in overall service of 25 years 7 months and 29 days at that relevant



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Retirement Scheme, whereby, the employees who have attained 40 years of age and 10 years of qualifying service are entitled for the availment of the scheme and that they are entitled for the amount of ex-gratia payment and other benefits including pension. Therefore, the petitioner preferred representations seeking pension and other benefits. However, the 1st respondent rejected the claim citing Regulation. Thereafter, the petitioner sent a letter to Prime Minister office on 05.03.2012 and the same was forwarded to the 4th respondent on 04.04.2012. But his request was not considered, hence, the present writ petition.

5. The learned counsel for the petitioner placed reliance on the decision of the Hon'ble Apex Court in **Civil Appeal No.6013 of 2011**, dated 28.07.2011, [Sheelkumar Jain Vs New India Assurance Company Limited and others] and submitted that the 1995 scheme could be applied to the case on hand and as held by the Honourable Supreme Court, Scheme cannot be so construed as to deprive the petitioner of his pensionary benefits. He also submitted that this court, in W.P.No.16002 of 2013, in the case of ***Mr.V.K.Nagaajan vs. The Chariman cum Managing Director, M/s.United***



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India Insurance Company Ltd. and another, referred to the said decision and directed the Chairman and Managing Director, United India Insurance Company Ltd., - 1st respondent therein, to pass orders on the representation of the petitioner dated 04.10.2017 in the light of the decision of the Supreme Court in Civil Appeal No.6013 of 2011.

6. Per contra, learned counsel for the 1st respondent would submit that in view of the petitioner's foreign deputation, he is eligible to apply for Voluntary Retirement only on completion of one year service in India as per Clause 30(1) of Pension Scheme, 1995. However, the petitioner applied for resignation/voluntary retirement by his letter dated 28.11.2000 with immediate effect. Further, he requested the respondent company to waive his notice period of 90 days vide letter dated 10.01.2001. As per Clause 22 of Pension Scheme, 1995, the petitioner was relieved from service on 12.02.2001 by way of resignation from the respondent company. The petitioner who had resigned from service as early as in the year 2001 is not entitled for any pensionary benefits and the writ petition is filed with delay and hence, the stale claim cannot be entertained.



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7. Heard both sides and perused the typed set of papers.

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8. Admittedly, the petitioner's deputation did not end as per the Regulations of the respondent company. After completing his deputation on overstayal, he reported to respondent and applied for voluntary retirement. His request for voluntary retirement was rejected and it was treated as resignation. Against which, the petitioner preferred series of representations and his request was rejected by letter dated 30.09.2011. Even thereafter, the petitioner sent representation and prayed for pensionary benefits.

9. In the facts of the present case, it is found that the petitioner had put in 25 years 7 months and 29 days service. His deputation period was beyond the maximum period of 5 years fixed by the General Insurance Corporation (GIC). As per proviso 30(2) of the Pension Scheme, 1995, the competent authority ought to have considered the claim of the petitioner. The general purpose of the 1995 Pension Scheme, is that the Pension Scheme cannot be so construed so as to deprive of an employee of an insurance company, such as the petitioner, who had put in the qualifying service for pension and who had



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voluntarily given up his service.

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10. In the light of the above discussion, this Court is inclined to pass the following directions:-

(i). The respondents 1 to 3 are directed to grant pension to the petitioner by accepting voluntary retirement as sought by him vide letter dated 28.11.2000. The 32 years service rendered by him, shall be treated as pensionable service. The petitioner's service upto 10.01.2001 has to be taken into consideration for grant of pension under the General Insurance (Employees) Pension Scheme 1995.

(ii). The above said exercise shall be completed by the respondents 1 to 3 months within a period of eight weeks from the date of receipt of a copy of this order.

14. The Writ Petition stands allowed on the above terms. No costs. Consequently connected miscellaneous petitions are closed.

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Index:Yes/No
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Speaking Order: Yes/No
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To

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J.NISHA BANU, J.

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