



W.P.No.7590 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2023

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P.No.7590 of 2021 and
W.M.P.No.8107 of 2021

Dr.C.Soosaipandi

... Petitioner

Vs.

1.The General Manager,
Personnel Department,
The National Insurance Company Limited,
Head Office, No.3, Middleton Street,
Kolkatta 700 071.

2.The Deputy General Manager,
The National Insurance Company Limited,
Chennai Regional Office,
No.190, Anna Salai,
Chennai 600 006.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order dated 25.02.2020 passed by the first respondent herein and consequently directing the respondents herein to pass appropriate order by granting all service and monetary benefits to the petitioner herein.



W.P.No.7590 of 2021

For Petitioner : Mr.A.R.Suresh for
Mr.P.Suresh Babu
For Respondents : Mr.P.Raghunathan for
M/s.T.S.Gopalan & Co

ORDER

This Writ Petition has been filed for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order dated 25.02.2020 passed by the first respondent herein and consequently direct the respondents herein to pass appropriate order by granting all service and monetary benefits to the petitioner herein.

2. Heard Mr.A.R.Suresh, learned counsel for the petitioner and Mr.P.Raghunathan, learned counsel for the respondents.

3. The petitioner who faced a criminal trial for the allegation of corruption made by the third person, got acquitted on 29.11.2013. The petitioner was working as a Divisional Manager in the first respondent Company. While regularising his period of suspension, the first respondent has passed an order by treating the period of suspension as Earned Leave for 120 days and rest of the period of suspension has been



considered as leave on loss of pay. Aggrieved over that, the petitioner has preferred this Writ Petition stating that as per Rule 22 of the National Insurance (Conduct, Discipline & Appeal) Rules, if the employee is honourably acquitted in a criminal case he is entitled to full pay allowance as though he continued to be in service and if the employee is acquitted on benefit of doubt, he is not entitled to the above benefit. For the sake of clarity, Rule 22 is extracted hereunder:

"22. Treatment of the period of suspension:

When the suspension of an employee is held to be unjustified or not wholly justified, or when an employee who has been dismissed, removed or suspended is reinstated, the competent Authority whose decision shall be final, may grant to him for the period of his absence from duty:

a) If he is honorably acquitted, the full pay allowance which he would have been entitled to if he had not been dismissed, removed or suspended, less the subsistence allowance;

B) If otherwise such proportion of pay and allowance as the competent authority may prescribe. "



W.P.No.7590 of 2021

4. The only crucial point for consideration is whether the order of acquittal passed by the Criminal Court has to be considered as acquittal on benefit of doubt or acquittal on merits. If it is proved to be acquittal on merits then there cannot be any problem for the first respondent to treat the period of suspension as duty. It is to be noted that the criminal case has not originated from the complaint given by the Department but by the third party. The petitioner was not given with any charge memo and subjected to disciplinary proceedings at any point of time in connection with the above criminal case. The judgment passed in CrI.A.No.610 of 2013 dated 29.11.2013, had reversed the conviction and acquitted the petitioner.

5. Though the words 'benefit of doubt' has been used in the result portion of the judgment, in the discussion of the judgment, a clear finding has been rendered that the complaint given by the third party complainant is a false one. No better words can be employed to convey a message that the reason for acquittal is because of the falsity of the prosecution case. So the acquittal is not due to want of sufficient evidence or defective evidence. A crystal clear finding has been rendered about the lack of



W.P.No.7590 of 2021

genuineness of the complaint itself and it is held that the complaint is false. In that case, there need not be any difficulty to presume that it is an honourable acquittal and not an acquittal on benefit of doubt only.

6. The learned counsel for the respondents submitted that the services of the petitioner under suspension were not available to first respondent and that the petitioner put himself in a blameworthy position and for which the department cannot help.

7. The learned counsel for the respondents further submitted that the words 'benefit of doubt' adopted in the impugned judgment should not be diluted to presume that it is an honourable acquittal, but at the same time, no truncated meaning can be given to the whole of the judgment without reading the judgment in full by merely reading the words 'benefit of doubt'. In usual course of rendering criminal judgment, the Courts also adopt the words 'benefit of doubt' even though the findings have been rendered on merits and the case itself is proved to be false. In the case in hand, the discussion made in the judgment and the language adopted during those discussion do give a clean chit to the petitioner about his



W.P.No.7590 of 2021

involvement in the case.

WEB COPY

8. In view of the above stated reasons, this Writ Petition is allowed and the impugned order dated 25.02.2020 passed by the first respondent is quashed and consequently, the respondents are directed to pass appropriate orders by granting all service and monetary benefits to the petitioner. Consequently, connected miscellaneous petition is closed. No costs.

19.10.2023

Index : Yes

Internet : Yes/No

gsk

To

1. The General Manager,
Personnel Department,
The National Insurance Company Limited,
Head Office, No.3, Middleton Street,

Page No.6 of 8



W.P.No.7590 of 2021

Kolkatta 700 071.

WEB COPY

2. The Deputy General Manager,
The National Insurance Company Limited,
Chennai Regional Office,
No.190, Anna Salai,
Chennai 600 006.



WEB COPY



W.P.No.7590 of 2021

R.N.MANJULA, J.

gsk

W.P.No.7590 of 2021
and W.M.P.No.8107 of 2021

19.10.2023