



WEB COPY



WP.No. 10131 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **24.03.2023**

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No. 10131 of 2017

and

W.M.P.No. 11115 of 2017

R. Ramakrishnan

...Petitioner

Versus

The Deputy General Manager (Personnel)
Personnel Department,
United India Insurance Company Limited
Head Office, 24-Whites Road
Chennai - 600 014.

...Respondent

Writ Petition is filed under Article 226 of the Constitution of India, prays to issue a Writ of Mandamus, directing the respondent to disburse the terminal benefits, such as, gratuity, privilege leave encashment, pension, pension commutation and arrears of salary etc., and benefits in accordance with retirement benefits with interest at 24% p.a. from 01.02.2015 till the date of final payment in lieu of petitioner's retirement dated 31.01.2015 and consequently to pay the arrears of salary from 01.08.2012 till 31.01.2015 along with interest at 24% p.a. till the date of payment.



WP.No. 10131 of 2017

WEB COPY

For Petitioner

: Mr.Paramasivadoss

For Respondent

: Mr. Anand Gopalan
for M/s.T.S. Gopalan & Co.,

ORDER

This writ petition has been filed seeking for a direction to the respondent to disburse the terminal benefits, such as gratuity, privilege leave encashment, pension, pension commutation and arrears of salary etc., along with interest at 24% p.a. from 01.02.2015 till the date of entire payment in view of the petitioner's retirement dated 31.01.2015 and consequently, to pay the arrears of salary from 01.08.2012 to 31.01.2015 along with interest at 24% p.a. till the date of payment.

2. The grievance of the petitioner is that he was appointed in the service of United India Insurance Company Limited in 1978 based on the Konda Reddy Community, which is a Schedule Tribe Community as per the Certificate issued by the Tahsildar, Thuraiyur Taluk, Trichy District. He has rendered 37 years of unblemished service with the respondent/Insurance Company. On attaining the age of superannuation,



WP.No. 10131 of 2017

WEB COPY

he had been relieved from service on 31.01.2015 by the respondent/Insurance Company. After his retirement, the respondent herein has not paid any terminal benefits and arrears of salary for the period from 01.08.2012 to 31.01.2015. In this regard, the petitioner made a representation dated 30.04.2015 to the Chief Regional Manager, United India Insurance Company Limited, Madurai, requesting to settle his terminal benefits. Till date, no order has been passed by the respondent on the representation of the petitioner. Hence, the petitioner has come forward with the present writ petition under Article 226 of the Constitution of India.

3. Heard both sides and perused the materials available on record.

4. On a perusal of the petition as well as counter affidavit, it appears that the Chairman, State Level Scrutiny Committee sent a latest communication dated 26.10.2022 to the respondent herein, it was informed that the enquiry caused by the Vigilance Cell, Trichy into the case of the petitioner is pending and report is awaited. It reveals that the final report from the State Level Committee is a vital document to



WP.No. 10131 of 2017

WEB COPY

conclude as to whether the appointment of petitioner is valid or not, the disbursal of the terminal benefits at this stage of the proceedings may not serve the cause of the justice.

5. The contention of the respondent is that in a similar matter of the Division Bench of this Court in W.P.No. 19839 of 2018 by order dated 04.12.2018 observed as follows:-

"Now, it appears that the matter is pending before The Tamil Nadu State Level Scrutiny Committee. Giving benefits to a person who got appointment on the ground that he belongs to the reserved community, and thereafter making recovery, if the same is found to be false, would amount to fraud on the constitution. Admittedly, the matter is pending consideration with the Tamil Nadu State Level Scrutiny Committee and, therefore, the veracity of the community certificate should be decided at the earliest."

6. The learned counsel appearing for the respondent would contend that the matter is pending before the State Level Scrutiny Committee. There is already an order passed by this Court in W.P.No. 524 of 1998, dated 07.03.2006, it observed as follows:-



WP.No. 10131 of 2017

WEB COPY

"When the issue relates to verification of the genuineness of the Community Certificate came up for consideration before the Supreme Court in the case reported in (Madhurai Patil v. Additional Commissioner Tribal Development (AIR 1995 SC 94) the Supreme Court had directed the State Government to constitute a committee with a power to go into the genuineness of such Certificate. Accordingly the State Government has constituted a committee in G.O.Ms.No.111, Adi Dravidar Tribal Welfare (ADW-10) Department, dated 06.07.2005. The said committee has so far not cancelled the Community Certificate issued in favour of the petitioner. In that view of the matter the writ petition shall not stand in the way of the properly constituted committee by the State Government to go into the genuineness of the Community Certificate and in the event, the said certificate is declared not to be genuine, the respondents are entitled to take action. No costs."

7. However, it is made clear that the matter is pending before the State Level Scrutiny Committee. Giving benefits to a person who got appointment on the ground that he belongs to the reserved community, and thereafter making recovery if the same is found to be false, would amount to fraud on the Constitution. Admittedly, the matter is pending consideration with the State Level Scrutiny Committee and, therefore, the veracity of the community certificate should be decided at the earliest.



WEB COPY



WP.No. 10131 of 2017

V.BHAVANI SUBBAROYAN

msm

W.P.No. 10131 of 2017

24.03.2023