



W.P.No. 1646 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2023

CORAM

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MR.JUSTICE P. DHANABAL**

**W.P.No. 1646 of 2023
and W.M.P.No. 1761 of 2023**

The Union of India
represented by its
Superintendent of Post Offices,
Salem West Division, Salem – 636005.

..Petitioner

Vs.

1.A.Gunasekaran,

2.The Registrar
The Central Administrative Tribunal,
Chennai Bench, Chennai-600104.

..Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India to issue a writ of Certiorari, calling for the entire records of the impugned order dated 12.04.2022 passed in O.A.No. 1683 of 2016 on the file of the Central Administrative Tribunal, Madras Bench and quash the same.

For Petitioner : Mr.C.Kulanthaivel

For Respondents : Mr.V.Vijayshankar – R1
R2- Tribunal



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ORDER

(Order of the Court was made by D.KRISHNAKUMAR, J.)

Aggrieved by the order passed by the Central Administrative Tribunal, Madras Bench in O.A.No. 1683 of 2016, dated 12.04.2022, the present writ petition has been filed by the petitioner-department.

2. The learned counsel for the petitioner has submitted that the 1st respondent/A.Gunasekaran while working as Sub Postmaster, Andagalur Sub Post Office, collected a sum of Rs.620/- from one Nirmala and credited as provisional premium at Andagalur Post Office on 23.02.2008 for taking Rural Postal Life Insurance Policy (RPLI) for Rs.1,00,000/-. The 1st respondent had failed to forward the RPLI proposal to the Inspector of Posts, Rasipuram Sub Division for further processing. In the meantime, the said Nirmala had expired on 12.10.2008. The legal heirs of the said Nirmala sent a legal notice dated 06.01.2009 addressed to the Postmaster, Suramangalam H.O claiming the policy amount of Rs.1 lakh for the RPLI paid by the said Nirmala, otherwise legal action will be taken.



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3. The learned counsel for the petitioner has further submitted that the legal heirs of the deceased Nirmala had filed a complaint in C.C. No.19/2009 seeking compensation of Rs.1,00,000/- towards the value of the policy and the mental agony caused to them. The District Consumer Forum by order dated 15.02.2012 directed the department to recover a sum of Rs.1,00,000/- with interest at the rate of 9% per annum from the date of complaint till the date of payment and litigation cost of 2500/- from those persons who are held responsible for the deficiency in service.

4. The learned counsel for the petitioner has further submitted that the 1st respondent alone is responsible, hence he was directed to credit the amount as awarded by the District Consumer Disputes Redressal Forum vide communication dated 19.10.2012. Subsequently, the 1st respondent has credited a sum of Rs. 1,36,866/- on 31.10.2012 (on the date of his retirement) under UCR towards the amount which is to be paid to the complainant. After payment of the said amount, he has given a letter to the Superintendent of Post office, Salem, stating that the said amount may kindly be refunded to him if the appeal before the State Consumer Forum is passed in favour of the petitioner-department.



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5. The learned counsel for the petitioner has further submitted that even though the said appeal was dismissed for non prosecution by the department before the State Consumer Disputes Redressal Commission, the fact remains that the 1st respondent had failed to forward the RPLI proposal to the Inspector of Posts, Rasipuram Sub Division for further processing of the postal life insurance taken by one Nirmala, for which the 1st respondent is entitled to pay the policy amount and the same was paid by him. Without considering the above factual aspects, the Central Administrative Tribunal has allowed the application filed by the 1st respondent in O.A.No. 1683 of 2016 and directed the petitioner herein to refund the amount paid by the 1st respondent is unsustainable in law and the same is liable to be set aside.

6. Per contra, the learned counsel for the 1st respondent has submitted that the petitioner department without conducting any enquiry, has sent a notice dated 19.10.2012 to the 1st respondent and directed him to pay a sum of Rs.1,36,868/- towards the policy amount, failing which the said amount will be recovered from his terminal benefits, which is illegal. Therefore, with no other option, the 1st



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respondent had paid a sum of Rs.1,36,868/- on the date of his retirement i.e on 31.10.2012. In the letter dated 31.10.2012, it is specifically stated by the 1st respondent that he had paid the amount subject to the final order passed in the appeal pending before the State Consumer Disputes Redressal Commission, Chennai filed by the department against legal heirs of the deceased Nirmala.

7. The learned counsel for the 1st respondent has further submitted that in the rejection order dated 26.08.2016 passed by the petitioner-department, it has been mentioned that if the consumer appeal case goes in favour of the department finally, then the recovered amount of Rs.1,36,866/- will be refunded to the applicant. Subsequently, the appeal filed by the department in F.A.No.60 of 2013 came to be dismissed for non-prosecution. But the petitioner department had rejected the representation submitted by the 1st respondent seeking refund, hence the 1st respondent had filed an application in O.A.No. 1683 of 2016 before the Central Administrative Tribunal. The tribunal by its orders dated 12.04.2022 rightly considered the case of the 1st respondent and directed the petitioner department to refund the amount paid by the 1st respondent as per the undertaking. Therefore nothing warrants interference by this Court



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and the writ petition is liable to be dismissed.

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8. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the 1st respondent and perused the materials available on record.

9. The primordial contention of the petitioner-department is that the 1st respondent herein has submitted a letter dated 31.01.2012 stating that he had paid a sum of Rs.1,36,868/- in favour the legal heirs of one Mrs. Nirmala. Now he cannot go back and seek for refund of the said amount, which according to the petitioner-department impermissible in law.

10. We have perused the order letter dated 19.10.2012 addressed by the Superintendent of Post Offices, Salem West Division to the 1st respondent herein. The contents in the said communication is as follows;

"The District Consumer Disputes Redressal Forum, Namakkal has ordered vide its judgment dated 15.02.2012 in C.C.No.19/2009 that "The Opp. Party Postal Dept can recover the amount which is to be paid to the complainants (T.N.Venkateswaran,



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M.Neelakrishnan, R.N.Vithya Priya and R.N.Ramya) from the staff or authorities of postal dept who has committed deficiency in service & negligence in this case. An amount of Rs.1,00,000/- with interest at the rate of 9% P.A from the date of complaint till the date of payment and entitled to get the litigation cost of Rs.2500/-.

As the case arose due to lapse on your part while working as SPM, Andagalur SO you are hereby directed to credit a sum of Rs.1,36,866/- (100000 + 34366(Int) + 2500) with THREE DAYS from the date of receipt of this letter under UCR and intimate compliance. Otherwise the same will be recovered from the retirement benefits."

11. Pursuant to the said letter, the 1st respondent herein has submitted a letter dated 31.10.2012 (i.e on the date of his retirement) to the petitioner department

"I had credited a sum of Rs.1,36,866/- (Rs.1,00,000 + interest 34366 + 2500) towards the amount which is to be paid to the complainant Sr.R.N. Venkateswaran, M.Neelakrishnan, R.N. Vithya Priya & R.N.Ramya in C.c.No. 19/2009 under UCR in receipt No. 2413 dtd 31.10.2012 in Tharamangalam SO. I request that the said amount may kindly be refunded to me if the case is finalised by Court in our favour"



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12. In the said letter the 1st respondent had clearly mentioned that the amount credited by him be refunded to him if the appeal before the tribunal is finalised in favour the department. Thereafter the 1st respondent had made representation for refund of the credited amount and the same was rejected by the petitioner-department by order dated 26.08.2016 which reads as follows;

"In view of the above facts and reasons stated, I, E.R.Palanisamy, Superintendent of Post Offices, Salem West Division, Salem 636005, being the respondent in O.A.No., 1227 of 2014, hereby consider the representation dated 05.08.2016 of the application Sri A.Gnanasekaran, given in the personal hearing to refund the recovered amount of Rs.1,36,866/- and reject the same. The respondent department has filed one appeal in State Forum against the order of the District Consumer Forum and it is under process. If the consumer appeal case goes in favour of the department finally, then the recovered amount of Rs.1,36,866/- will be refunded to the applicant"

13. Subsequently, the said appeal before the State Consumer Forum was dismissed for non prosecution by the department by order dated 31.01.2020. According to the petitioner-department, they have taken steps to recall the order passed by the State Consumer Forum.



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14. It is the specific case of the 1st respondent that he had paid the said amount on the date of his retirement based on the notice served on him, directing him to pay the policy amount along with interest, otherwise the same will be deducted from his terminal benefits. Therefore, with no other option, the 1st respondent had paid the amount subject to the outcome of the appeal pending before the State Consumer Disputes Redressal Forum, Chennai. Therefore there is no fault on the part of the 1st respondent, it is for the petitioner-department to contest the case before the State Consumer Forum.

15. Admittedly, the 1st respondent had retired from service on 31.10.2012 and the appeal before the State Consumer Redressal Forum came to be dismissed for non prosecution on 31.01.2020 i.e. after a period of eight years. Hence, the responsibility for contesting and pursuing the appeal rests with the petitioner-department. The burden of recovering the amount should not be shifted onto the 1st respondent.

16. The tribunal has rightly come to conclusion that the appeal filed by the petitioner-department came to be dismissed for non prosecution and they had not taken any appropriate steps to recall the



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said order and caused great hardships to the 1st respondent herein.

Therefore, we safely come to the conclusion that the order of the tribunal does not requires any interference by this Court and the same is confirmed. The petitioner-department shall refund the amount of Rs.1,36,868/- to the 1st respondent within a period of twelve (12) weeks from the date of receipt of a copy of this order.

17. With the above observations and directions, the writ petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. It is open to the petitioner-department to proceed against the persons responsible for dismissal of the appeal in F.A No.60 of 2013, dated 31.01.2020 for non prosecution.

(D.K.K., J.) (P.D.B., J.)

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Index: Yes / No
Internet: Yes
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To

1. The Superintendent of Post Offices,
Salem West Division,
Salem – 636005.
2. The Registrar
The Central Administrative Tribunal,
Chennai Bench, Chennai-600104.



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