



W.P.(MD)Nos.9979 of 2020 & 5771 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MRS. JUSTICE L.VICTORIA GOWRI

W.P.(MD)Nos.9979 of 2020 & 5771 of 2023

W.P.(MD)No.9979 of 2020:

The Life Insurance Corporation of India Ltd.,
Through its Senior Divisional Manager,
Division Office,
Jeevan Prakash Bridge Station Road,
Sellur, Madurai – 625 002.

: Petitioner

Vs.

1.The Chairman,
State Level Scrutiny Committee – II,
Adhi Dravidar and Tribal Welfare Department,
Fort St. George, Chennai- 9.

2.The District Collector,
Tirunelveli District,
Tirunelveli.



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3.T.Karthikeyan,
Development Officer,
Life Insurance Corporation of India Ltd.,
Sivagangai.

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorarified Mandamus to call for the records relating to the proceedings in a letter No.13704/CV-2(2)/2017-6 dated 17.07.2019 on the file of the first respondent and to quash the same and further direct the first respondent to complete the enquiry into the Community status of the third respondent within the reasonable time as may be stipulated by this Court.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondents : Mr.A.Baskaran
Addl. Govt. Pleader for R1 and R2

Mr.V.Vijay Shankar for R3

W.P.(MD)No.5771 of 2023:

T.Karthikeyan,

: Petitioner

Vs.



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1.The Chairman,
State Level Scrutiny Committee – II,
Adi Dravidar and Tribal Welfare Department,
Fort St. George, Chennai- 600 009.

2.The Life Insurance Corporation of India Ltd.,
Rep. by its Manager (Legal),
Division Office,
Jeevan Prakash Bridge Station Road,
Sellur, Madurai – 625 002.

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus forbearing the respondents from verifying the petitioner's community and consequently, directing the second respondent to release the pension, gratuity, earned leave encashment, group insurance, PF contribution and other benefits payable to the petitioner within a time frame to be fixed by this Court.

For Petitioner : Mr.V.Vijay Shankar

For Respondents : Mr.A.Baskaran
Addl. Govt. Pleader for R1

Mr.G.Prabhu Rajadurai for R2



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COMMON ORDER

(Order of the Court was made by R.SUBRAMANIAN,J.)

These writ petitions are taken up together for disposal since the issues involved are one and the same.

2. In W.P(MD)No.5771 of 2023, the petitioner seeks for a Mandamus forbearing the respondents from verifying the petitioner's community certificate and consequently, directing the second respondent, employer to release the pension, gratuity, earned leave encashment and other retirement benefits. In W.P(MD)No.9979 of 2020, the employer challenges the order of the State Level Scrutiny Committee, dated 17.07.2019, in and by which, the Committee closed the enquiry.

3. The facts relating to these writ petitions are as follows:-



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The petitioner in W.P(MD)No.5771 of 2023, Mr.Karthikeyan joined the Life Insurance Corporation as Assistant in the year 1983 under the quota belonging to the Schedule Tribes based on a certificate dated 19.06.1982 issued by the Revenue Divisional Officer, Tirunelveli. He was subsequently, promoted and appointed as a Development Officer with effect from 14.11.1985. Since there was certain doubt raised, about the genuineness of his community certificate, the matter was referred to the Revenue Divisional Officer, Tirunelveli. The Revenue Divisional Officer, by his communication dated 24.08.1990, upheld the validity of the certificate issued to the petitioner in W.P(MD)No.5771 of 2023. Subsequently, there was another verification contemplated in the year 1997 and notice was issued to the petitioner in W.P(MD)No.5771 of 2023 on 30.07.1997. This notice was challenged by the petitioner in a writ petition in W.P(MD)No.12440 of 1997. This Court held that once certificate had been verified and found to be genuine, there cannot be a re-verification and the petitioner cannot be harassed by way of second enquiry. While doing so, this Court in paragraph 9 of the Judgment, has observed as follows:-



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“9. All the above mentioned decisions clearly show that the appointing authority has right to verify the genuineness of the certificates by approaching the constituted authority and once the report is received holding that certificate is genuine, valid , thereafter, the certificate holder cannot be further harassed to prove his caste/community in any other manner. Accordingly, the present action of the second respondent calling upon the petitioners to appear for an enquiry regarding the genuineness of the community certificate obtained cannot be sustained.”

4. As a result of the above observation, the writ petition was allowed and the contemplated enquiry was aborted. It should be pointed out that the employer, namely, Life Insurance Corporation, was a party to the said writ petition, inasmuch as it was arrayed as third respondent. Thereafter, claiming that it has received certain complaints supported by certain documents, the Life Insurance Corporation sought for another reference of the certificate of the petitioner in W.P(MD)No.5771 of 2023. The said reference was closed vide order dated 17.07.2019. The said closure order is the subject matter of challenge in W.P(MD)No.9979 of 2020.



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5. We have heard Mr.V.Vijay Shankar, learned counsel for the petitioner in W.P(MD)No.5771 of 2023 and Mr.G.Prabhu Rajadurai, learned counsel for the employer, the second respondent in W.P(MD)No.5771 of 2023 and the petitioner in W.P(MD)No.9979 of 2020.

6. While Mr.V.Vijay Shankar, learned counsel for the petitioner, placing heavy reliance on the Judgment of this Court in W.P(MD)No.12440 of 1997, would contend that the authority did not have jurisdiction to launch upon a second enquiry, particularly, in the light of the Judgment of this Court in W.P(MD)No.12440 of 1997. He would also draw our attention to the Judgment of the Hon'ble Supreme Court in *J.Chitra vs. State Level Vigilance Committee* reported in *(2021)9 SCC 811* and the Judgment of the Division Bench of this Court in *V.Sathyamurthu vs. Union of India in W.P(MD)No.5737 of 2022 dated 28.10.2022*, to which, one of us (R.Subramanian, J) was a party.

7. According to Mr.V.Vijay Shankar, a combined reading of the Judgments in *J.Chitra and Sathyamurthy* would show that once



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genuineness of the certificate has been verified and affirmed by the competent officer, there cannot be a re-verification either on the ground of discovery or on the ground of change in the person who has to conduct verification. He would also point out that the Judgment rendered in W.P(MD)No.12440 of 1997 is binding on the State as well as employer since both were parties to the said Judgment. Mandamus had been issued by this Court forbearing the respondents from taking up verification again. That being so, the launch of verification at the instance of employer, namely, the petitioner in W.P(MD)No.9979 of 2020 itself is flawed.

8. Mr.G.Prabhu Rajadurai, learned counsel for the Life Insurance Corporation would submit that when there is a change in circumstances and new material has been placed before the employer which creates a doubt about the genuineness in the community certificate, the employer has to necessarily verify the same by referring the matter to the State Level Scrutiny Committee. Placing reliance upon the above decision of ***Kumari Madhuri Patil vs. Additional Commissioner, Tribal Development and others*** reported in ***(1994) 6 SCC 241***, would contend that it is open to the employer to have re-verification done.



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9. From the facts set out, we find that verification was done by the competent authority soon after the petitioner in W.P(MD)No.5771 of 2023 joined the service of the Corporation. The second verification was also done in 1991, in which also, the claim of Mr.Karthikeyan, the petitioner in W.P(MD)No.5771 of 2023 that he belongs to Schedule Tribe was confirmed. Only when the verification was attempted for the third time on 30.07.1997, the petitioner challenged the same. That challenge was sustained and the prayer for Certiorarified Mandamus was granted. Mandamus is forbearing the respondent from proceeding with the verification of the community certificate. This continuous Mandamus is equal to a decree for permanent injunction granted by the civil Court. No doubt, in ***Kumari Madhuri Patil's case***, the Hon'ble Supreme Court had observed that even a certificate, which is confirmed, can be verified if proper ground, namely, it was obtained by fraud, exists.

10. In the case on hand, it is claimed by the employer namely, Life Insurance Corporation of India that subsequent complaint along with certain



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documents have been received by it. That itself would not offer a ground for re-verification. There has to be a finding of fraud and it is not State Level Scrutiny Committee which is empowered to conclude that earlier verification was flawed by reason of fraud. If some new and additional material is made available by some person and that too, 15 years after the first verification, we do not think that the beneficiary or employee could be harassed with a third or fourth enquiry on whims and fancies of the employer. The order in W.P.No.12440 of 1997 inter parties and it is binding on the parties. Therefore, re-verification of the community certificate is in violation of the Mandamus issued by this Court cannot be done. Even in *J.Chitra's case*, the Hon'ble Supreme Court of India has pointed out that such repeated enquiry should not be done. The Division Bench in *Sathyamurthy's case* has held the same view.

11. In view of the above peculiar circumstances of the case on hand, we do not think that we should allow that the second enquiry to be conducted.



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12. We should also point out that the Life Insurance Corporation in the affidavit filed in support of W.P(MD)No.9979 of 2020 has suppressed the fact that there was an earlier verification and the community certificate issued in 1982 was found to be true by the authorities in the year 1990. That vital information alone has been glossed over, conveniently, by the Corporation in paragraph 5 of the affidavit when it pointed out that the writ petition was filed in W.P.No.12440 of 1997 challenging the second enquiry. We are dismayed, shocked and surprised at this kind of suppression made by a premier financial institution in the country. We hope that such incidents are not repeated for trifling favours from the Court.

13.Hence, we dismiss W.P(MD)No.9979 of 2020 with a cost of Rs.2,00,000/- (Rupees Two Lakhs only) payable to the Cancer Institute, Chennai, only for suppression of material for no other reason. Liberty is given to the Corporation to recover the cost from the deponent of the affidavit. W.P(MD)No.5771 of 2023 will stand allowed. There will be a direction to the Life Insurance Corporation to pay all the benefits due to the

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petitioner Mr.T.Karthikeyan, within a period of four weeks from the date of receipt of a copy of this order.

[R.S.M., J.] & [L.V.G., J.]
27.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes

skn

To

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State Level Scrutiny Committee – II,
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2.The District Collector,
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