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W.P. No. 25224 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2024

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THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P. No. 25224 of 2019

C. Chandrasekhar

... Petitioner

Vs.

1.Life Insurance Corporation of India,
Rep., by its Zonal Manager,
South Zone, Anna Salai,
Chennai – 600 002.

2.The Senior Divisional Manager,
LIC of India,
Divisional Officer,
Johnsonpet, Salem – 636 007.

... Respondents

Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondents to pass appropriate orders for regularisation of leave and issue of posting order to petitioner and to grant him encashment of earned leave and unearned leave, withdrawal of P.F., etc.

For Petitioner : Mr. S. Senthil

For Respondents : Mr. C.K. Chandrasekhar



ORDER

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Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents and perused the materials available on record.

2. The case of the petitioner is that, he joined as Apprentice Development Officer in the respondent Corporation on 01.08.1985 in Coimbatore. Subsequently, he was appointed as Probationary Development Officer, with effect from 01.11.1985. He was confirmed in the post of Development Officer, with effect from 01.02.1987. He purchased a Flat by availing housing loan of Rs.1,95,000/- from the respondent Corporation on 31.11.1995. Due to unforeseen circumstances, he applied for leave from 01.02.1997 to 31.01.1998. After the expiry of the leave, he reported for duty on 01.02.1998. But he was not allowed to rejoin duty inspite of various representations. He met concerned authorities and requested to allow him to join duty but it was not considered.

3. As per the contention of the petitioner's counsel, the petitioner have neither been taken back to duty nor placed under suspension. No disciplinary action has been initiated against him till date. The petitioner have not been paid any pay and allowances from 01.02.1997 onwards. The incentives due to the petitioner from 1994 to 1997 also not paid. That apart, his PF accumulations are with the LIC. The petitioner have earned leave and unearned leave that his credit and an encashment of



those leaves are due to him.

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4. Learned counsel for the petitioner further submits that it is settled law that even employees removed or dismissed from service are entitled to the aforesaid benefits. Under these circumstances, the petitioner constrained to file this writ petition seeking a direction to the respondents for regularisation of leave and issuance of posting orders and to grant him encashment of earned leave and unearned leave, withdrawal of PE etc.

5. On the other hand, the learned Standing Counsel appearing for the respondents submit that the petitioner was abstained from duties from the month of May 1997, since then the petitioner never reported to duty and his whereabouts are not known to the respondents. Learned Standing Counsel further submits that for unauthorised absence of the petitioner for a long period, the respondents have initiated disciplinary proceedings against the petitioner and by following the procedure, he was dismissed from service. The competent authority has imposed penalty of removal from service by order dated 10.12.1998 and it has become final. Learned Standing Counsel further submits that, after passing the dismissal order, after 20 years, the petitioner filed this writ petition seeking a relief for regularisation and for posting and for payment of the PF, EL and other amounts, which is not permissible under law. Learned Standing Counsel would submit that, as the petitioner



was removed from service, he is not entitled for the amounts claimed in this writ petition as all those amounts will forfeit to the respondents and sought to dismiss the writ petition.

6. Having considered the submissions of the respective counsel and on careful examination of the materials available on record, there is no substantial proof to show that the respondents did not allow the petitioner to duty from the month of February 1998. If the contention of the petitioner is true that the respondents did not allow him to report duty after availing the leave period, it is open to the petitioner to approach the competent authority in the respondents corporation or any higher authorities or atleast he can approach this Court seeking appropriate relief. But no such steps are taken by the petitioner. It proves that, he is unauthorised absent for the duty from the month of May 1997 onwards. It is also an admitted fact that, the respondents after conducting enquiry, imposed punishment of removal of service of the petitioner from the respondents corporation, that order also not challenged and it has become final.



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7. In our considered view, the petitioner is not entitled for any relief sought in this writ petition. This Court finds that there is substantial force in the contention of the learned Standing Counsel for the respondents that, as the punishment imposed against the petitioner is dismissal of service, he is not entitled for the claims made in the prayer in this writ petition.

8. For the aforesaid reasons, this Court is of the considered opinion that the petitioner failed to make out any case warranting interference of this Court to invoke Article 226 of the Constitution of India and as such, this writ petition fails and liable to be dismissed.

9. Accordingly, this Writ Petition is dismissed.

10. There shall be no order as to costs.

01.10.2024

Index :Yes/No

Neutral Citation :Yes/No

AT



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BATTU DEVANAND, J.

AT

To

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