



W.P.No.3127 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.3127 of 2017

and

W.M.P.No.3050 of 2017

B.Shanmugam

... Petitioner

Vs

1.The General Manager,
The New India Assurance Company Limited,
Having its Head Officer at
No.87, M.G. Road, Fort,
Mumbai – 400 001.

2.The Deputy General Manager,
The New India Assurance Company Limited,
Having its regional Office at,
No.770A, Anna Salai,
Chennai – 600 002.

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in their impugned order, dated 03.01.2017 and quash the same and direct the respondent to settle the terminal benefits as per the Type 'C' of the circular dated 25.03.2014 and pass

Page No: 1/9



W.P.No.3127 of 2017

WEB COPY

further orders.

For Petitioner : Mr.L.Chandra Kumar
for Mr.S.Thiruvengadam

For Respondents : Mr.Vijay Shankar

ORDER

This Writ Petition has been filed challenging the order of the second respondent, dated 03.01.2017 and for a consequential direction to the respondents to settle the terminal benefits as per the Type 'C' of the circular dated 25.03.2014.

2. The petitioner herein has worked as Divisional Manager in the respondent Insurance Company and retired from service on 30.09.2014 on attaining the age of superannuation. Thereafter, a charge memo was issued on 27.10.2014, alleging certain misconduct on the part of the petitioner. Aggrieved by the said charge memo, the petitioner had approached this Court by filing a Writ Petition in W.P.No.1924 of 2015 and this Court by its dated 24.11.2016, quashed the said charge memo.

Page No: 2/9



W.P.No.3127 of 2017

WEB COPY

However, in an appeal filed by the respondent Insurance Company against the said order, the order in W.P. was confirmed, and the learned Division Bench directed the respondent Insurance Company to pay all the retirement benefits to the petitioner if there is no impediment. Thereafter, the case of the petitioner was considered and the respondents Insurance company decided to pay provisional pension in terms of Regulations and in terms of Rule 45 of the General Insurance Employes Pension scheme, 1995, and other retirement benefits are with held on the ground that the criminal proceedings that were initiated as against the petitioner are pending in C.C.No.22 of 2017. Aggrieved by the said action of the respondents, the petitioner approached this court by filing the present Writ Petition.

3. The learned counsel for the petitioner contended that in view of quashing of the charge memo, dated 27.10.2014 issued to the petitioner by this Court, there are no disciplinary proceedings that are pending against the petitioner as on date and therefore, the respondents

Page No: 3/9



W.P.No.3127 of 2017

WEB COPY

are not justified in withholding the terminal benefits that are payable to the petitioner and it is only by taking advantage of the observations of the learned Division Bench stating that “if there are no impediments”, the terminal benefits be paid to the petitioner, the respondents have now withheld the terminal benefits that are payable to the petitioner by taking advantage of the pendency of the criminal case against the petitioner under Rule 45 of the General Insurance Employees Pension scheme, 1995. For better appreciation, relevant Rule 45 is extracted hereunder:-

“45.Provisional Pension:- (1) An employee who has retired on attaining the age of superannuation or otherwise and against whom any departmental or judicial proceedings are instituted or where departmental proceedings are continued, a provisional pension equal to the maximum pension which would have been admissible to him, would be allowed subject to adjustment against final retirement benefits sanctioned to him, upon conclusion of the proceedings but no recovery shall be made where the pension finally sanctioned is less than the provisional



W.P.No.3127 of 2017

*pension or the pension is reduced or withheld etc,
either permanently or for a specified period.”*

4. From the above, it is evident that in case any disciplinary proceedings or judicial proceedings are instituted or such proceedings continued, the employee is entitled for payment of provisional pension equal to the maximum pension which would have been admissible to him could be allowed. However, the said pension paid shall be adjusted against the final retirement benefits sanctioned to him upon conclusion of the proceedings.

5. From the above, it is evident that, in view of the pendency of the proceedings in C.C.No.22 of 2017 against the petitioner, the respondents having granted the provisional pension equal to the maximum pension that is admissible, the respondents were right in withholding the other terminal benefits for which the petitioner is entitled to. Rule 45 of the said Rules is not under challenge and in the absence

Page No: 5/9



W.P.No.3127 of 2017

WEB COPY

of any challenge to the said Rule, this Court is not able to find any fault with the respondents in withholding the terminal benefits of the petitioner. It is not in dispute that the petitioner involved in the criminal case as referred to above and the same is pending.

6. In the light of the above, the claim of the petitioner to settle the terminal benefits pending finalisation of criminal proceedings cannot be permitted and in view of the above, this Court does not find any infirmity or illegality in the order passed by the respondents, dated 03.01.2017. However, it is made clear that on conclusion of the proceedings in C.C.No.22 of 2017, without any undue delay, the respondents shall consider the claim of the petitioner for payment of retirement benefits and pass appropriate orders in accordance with the law.

7. Accordingly, this Writ Petition is dismissed subject to above

Page No: 6/9



W.P.No.3127 of 2017

observations. However, there shall be no order as to costs.

WEB COPY

Consequently, connected miscellaneous petition is closed.

04.04.2024

gba

Index : Yes/No

Speaking order : Yes/No

Neutral Citations : Yes/No

To

1.The General Manager,
The New India Assurance Company Limited,
Having its Head Officer at
No.87, M.G. Road, Fort,
Mumbai – 400 001.

2.The Deputy General Manager,
The New India Assurance Company Limited,
Having its regional Office at,
No.770A, Anna Salai,
Chennai – 600 002.

Page No: 7/9



WEB COPY



W.P.No.3127 of 2017

MUMMINENI SUDHEER KUMAR,J.

gba

W.P.No.3127 of 2017
and
W.M.P.No.3050 of 2017

Page No: 8/9



WEB COPY



W.P.No.3127 of 2017

04.04.2024

Page No: 9/9