BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 04.07.2024

Pronounced on : 12.08.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

W.P.(MD)Nos.1463, 1466 and 1467 of 2021

M.Velammal ... Petitioner in WP(MD)No. 1463 of 2021

P.Muthulakshmi ... Petitioner in WP(MD)No. 1466 of 2021

R.Suseela ... Petitioner in WP(MD)No. 1467 of 2021

Vs.

Life Insurance Corporation of India,
Madurai Division, P & G.S.Unit,
Jeevan Prakash, Bridge Station Road,
Sellur, Madurai-625002
represented by its Branch Manager ... Respondent in all the petitions

Common Prayer : These Writ Petitions filed under Article 226 of Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent under his letter dated 23.03.2020 by rejecting the petitioners' claim for the payment of interest towards the annuity corpus fund kept by the respondent from 15.03.2003 and quash the same as illegal, ultra virus, unsustainable and direct the respondent to pay interest to the petitioners on the basis of the petitioners' representation dated 15.03.2020, 15.03.2020 and 11.03.2020 respectively within a time may be fixed by this Court.

(in all the petitions)

For Petitioner : Mr.M.Ponniah

For Respondent : Mr.D.Shanmugaraja Sethupathy

COMMON ORDER

These Writ Petitions are directed against the orders dated 23.03.2020 passed by the respondent rejecting the writ petitioners' claim for the payment of interest towards Annuity Corpus Fund kept by the respondent-Insurance Corporation from 15.03.2003 and for directions to the respondent-Insurance Corporation to pay interest on the basis of the writ petitioners' representations dated 15.03.2020, 15.03.2020 and 11.03.2020 respectively within a time to be stipulated by this Court.

2. The writ petitioner's husband in W.P.(MD)No.1463 of 2021 S.P.Muniyandi, writ petitioner's husband in W.P.(MD)No.1466 of 2021 K.Ponnuchamy and writ petitioner's husband in W.P.(MD)No.1467 of 2021 Rathinam were the employees of Ramanathapuram District Sarvodhaya Sangam at No.66, Kanthadai Street, Srivilliputhur, Virudhunagar District.

3. It is not in dispute that the said Sarvodhaya Sangam for the benefit of its employees introduced a pension scheme and the proposal was sent to the respondent-Insurance Corporation, that object of the policy "Group Superannuation Policy" is to provide pension benefits to its employees after their retirement and after the death of such employee, the entire benefits under the said policy will be given to the wife of the deceased employee, that the said scheme came into effect from 01.04.1994 and the respondent-Insurance has also framed Group Superannuation (Cash Accumulation) scheme Rules, that the said Sarvodhaya Sangam contributed Rs.6,00,000/- as corpus fund and also contributed Rs.19,79,156/- for the period between 1994 and 31.10.2000 and that the employees contributed a sum of Rs.13,08,087/- between March-1994 and

31.10.2000, all totalling Rs.38,71,119.95/- which came to be deposited with the respondent-Insurance Corporation.

4. It is also not in dispute that the said scheme has been stopped due to the audit report of the principle Accountant General (Audit I), Chennai since family pension scheme came into effect from 16.11.1995 and that the said Sarvodhaya Sangam windup the scheme and in pursuance of the same, the respondent-Insurance has repaid Rs.13,32,964/- to the credit of the said Sarvodhaya Sangam and retained a sum of RS.28,81,476/-.

5. It is also not in dispute that the said Sarvodhaya Sangam has filed a writ petition in W.P.No.7737 of 2005 against the respondent-Insurance Corporation and 12 employees including the writ petitioners' husbands seeking a writ of mandamus directing the respondent-Insurance Corporation to return the amount of Rs.28,81,476/- along with interest till the date of realization, that the writ petition, after enquiry, came to be dismissed vide order of this Court dated 15.09.2010, that the said Sarvodhaya Sangam has preferred an appeal in W.A.(MD)No.1601 of 2016 and the same was also dismissed on 09.08.2019, that the writ

petitioners' made representations to the respondent-Insurance Corporation dated 19.09.2019 demanding them to pay the matured Annuity Corpus Fund to them, that the respondent-Insurance Corporation, after the receipt of their representations, has sent a reply dated 18.10.2019 stating that they will settle the monitory benefits after the receipt of the claim forms by the said Sarvodhaya Sangam and that subsequently the respondent-Insurance Corporation has sanctioned and deposited a sum of Rs.3,10,068/-, Rs.3,18,900/- and Rs.1,61,406/- on 03.02.2020 in their respective bank accounts.

6. The case of the writ petitioners is that their husbands had died on 21.11.2007, 08.11.2011 and 06.03.2012 respectively and the writ petitioners being their legally wedded wife are entitled to get the Annuity Corpus Fund with interest at 9% per annum from the date of death of their husbands, that the respondent-Insurance Corporation has informed that the amount was not paid due to the pendency of the writ petition and the writ appeal, that the respondent-Insurance Corporation, after the dismissal of the appeal, has only deposited the amount above referred but not interest, that the respondent-Insurance Corporation has kept a sum of

Rs.25,25,576/- from 15.03.2003 and they have earned interest atleast to the tune of Rs.75,00,000/- on the said amount, that the writ petitioners made representations to the respondent-Insurance Corporation dated 15.03.2020, 15.03.2020 and 11.03.2020 respectively along with tentative calculation details towards interest, that the respondent-Insurance Corporation having received the representations sent their reply dated 23.03.2020 stating that they are not liable to pay any penal interest due to the pendency of the litigation and that since the writ petitioners have demanded the interest for the amount, which was kept by the respondent-Insurance Corporation for the past 17 years and they are liable to pay interest, the impugned order rejecting the writ petitioners' claim dated 23.03.2020 is illegal and as such, the same is liable to be set aside.

7. The respondent-Insurance Corporation has filed a counter affidavit disputing the writ petitioners' averments and further stated that as per the advice of the Master Policy Holder i.e., the said Sarvodhaya Sangam, the respondent-Insurance Corporation has settled 1/3rd commutation value to their retired employees on various dates and annuities were purchased to settle pension as per the policy conditions,

that there is no pooled fund of Rs.28,81,476/- with the respondent-Insurance Corporation as alleged, that after surrender of the Master Policy in 2003, the Master Policy Holder has filed a writ petition in W.P.No.7737 of 2005 claiming the return of purchase price in favour of the policy holder on death of the annuitants, that the said petition was dismissed and the Master Policy Holder has filed an appeal in W.A.(MD)No.1601 of 2016 and the same was also dismissed confirming the settlement of return of purchase price under the annuities to the respective nominee of the deceased employee as per the policy conditions, that as per the terms of the policy, the respondent-Insurance Corporation has to provide payment of pension to the employees of the said Sarvodhaya Sangam after their retirement and for that purpose, separate Annuity Corpus Fund (pension fund) was allotted to each retired employee from the total running account consisting of amount paid by the employer as premium and interest accrued, that death benefit of return of purchase price was made regularly to the beneficiaries of the annuitants before filing of the writ petition by the Master Policy Holder, that subsequent to the disposal of the writ appeal, the claim form, discharge receipt and indemnity bond were received from the nominee and the settlement was done on 03.02.2020, that since there is no delay on the part of the respondent-Insurance Corporation, they are not liable to pay any interest and that therefore the writ petition is liable to be dismissed.

8. As already pointed out, the said Sarvodhaya Sangam has filed the writ petition seeking a writ of mandamus directing the respondent-Insurance Corporation to pay the amount of Rs.28,87,476/- with interest from the date of default till realization within a time to be fixed by this Court.

9. The respondent-Insurance Corporation has taken a stand in the earlier writ petition that the said Sarvodhaya Sangam has surrendered the scheme with the respondent-Insurance Corporation and the amount of Rs.13,42,322/- available in the pooled fund was settled to the said Sarvodhaya Sangam on 09.09.2003 as full and final settlement, that the said Sarvodhaya Sangam had purchased the annuity for the employees retired upto the surrender of the policy, who were eligible for pension, that the amount required for purchase of annuities was already debited from the pooled fund as and when there was retirement and the annuities were

being settled to the annuitants and that the said Sarvodhaya Sangam has also confirmed the receipt of the amount vide their letter dated 31.07.2003 and hence, there is absolutely no balance amount due by the respondent-Insurance Corporation to the said Sarvodhaya Sangam. The employees including the husbands of the writ petitioners have also filed their counter affidavit contending that the said Sarvodhaya Sangam had no *locus standi* to file the writ petition for the reason that the employees have repaid their contribution for the purpose of getting pension and after their retirement, as per Schedule III Rule 4 of Master Policy, they are entitled to claim pension till their life time and thereafter the Annuity Corpus Fund shall be paid to the nominee of the retired employee in full and that the said Sarvodhaya Sangam has no option or right to claim the Annuity Corpus Fund once allotted for the retired employees but is only having right to the balance accumulated amount under the policy after allotment to the Annuity Corpus Fund as per Schedule IV and the said Sarvodhaya Sangam has also received huge amount of Rs.13,42,322/- as balance amount and that the said Sarvodhaya Sangam has no authority to claim the amount. This Court, taking note of the stand taken by the Insurance Corporation as well as the employees and finding that there are no merits, dismissed the writ petition. The said Sarvodhaya Sangam has then preferred an appeal in W.A.(MD)No.1601 of 2016 and the Hon'ble Division Bench of this Court dismissed the appeal.

10. It is not in dispute that before filing of the writ petition by the said Sarvodhaya Sangam, as per the policy terms and conditions, the respondent-Insurance Corporation had been paying pension to the retired employees, who became members to the scheme, but after their filing of the writ petition, they have stopped to settle death benefits to the nominee of the deceased employee. It is also not in dispute that after dismissal of the writ appeal filed by the said Sarvodhaya Sangam, the respondent-Insurance Corporation has disbursed the amounts to the writ petitioners but without interest.

11. The learned counsel appearing for the writ petitioners would mainly contend that the writ petitioners' husbands had died on 21.11.2007, 08.11.2011 and 06.03.2012 respectively but the amounts were paid only on 03.02.2020 after the lapse of 13 years, 9 years and 8 years respectively in respect of the writ petitioners and that since they have retained Rs.25,25,576/- as on 15.03.2003, they are liable to pay interest.

12. The learned counsel appearing for the writ petitioners would further submit that the writ petitioners have made their representations before the respondent-Insurance Corporation immediately after the death of their husbands demanding the death benefits, that the writ petitioner in W.P.(MD)No.1463 of 2021 has sent a representation dated 17.03.2008 to the respondent-Insurance Corporation referring to their earlier communication dated 19.12.2007 informing the death of her husband and demanding the benefits but there was no response and that the respondent-Insurance Corporation has sent a reply dated 17.03.2008 informing that amount cannot be given as per the decisions of the Trustees to the Society after referring to the letter sent by the Trustee, Ramanathapuram District Sarvodhaya Sangam, Srivilliputhur.

13. It is not the case of the respondent-Insurance Corporation that the Writ Court has granted any interim order directing the respondent-Insurance Corporation not to disburse the death benefits to the nominee of the deceased employee till the disposal of the writ petition and it is also not their case that such directions came to be issued in the writ appeal.

14. As already pointed out, the respondent-Insurance Corporation, by filing a counter affidavit and by taking a specific stand that as per the terms and conditions of the scheme, the Society is not entitled to get the amount retained by the respondent-Insurance Corporation meant for payment of pension to the retired employees and payment of death benefits to the nominee of the deceased employee of the Scheme, was contesting the writ petition.

15. It is pertinent to note that during the pendency of the writ petition in W.P.No.7737 of 2005, the Society has sent a letter to the respondent-Insurance Corporation directing the respondent not to disburse the amount of Rs.3,13,200/- due to the legal heir of the deceased S.P.Muniyandi till the disposal of the writ petition.

16. In the absence of any specific directions issued by the Writ Court or by the appellate Court directing the respondent-Insurance Corporation not to disburse the amounts to the nominees of the deceased, as rightly contended by the learned counsel appearing for the writ petitioners, this Court is at loss to understand as to how the respondent-

Insurance Corporation by referring the letter written by the Society and more particularly, when the respondent-Insurance Corporation had taken a stand against the case of the Society before the Writ Court, has refused to pay the death benefits.

17. As rightly contended by the learned counsel appearing for the writ petitioners, when the respondent-Insurance Corporation had taken a specific stand that they have retained the amount so as to enable them to pay pension to the employees of the said Sarvodhaya Sangam after their retirement as per the terms and conditions of the policy and for payment of Annuity Corpus Fund to the nominee of the deceased employee, the respondent-Insurance Corporation has not offered any reason or explanation for non-complying with the stand taken by them before the Writ Court.

18. Since the writ petitioners have made the claim immediately after the death of their husbands for payment of benefits and the same were rejected by the respondent-Insurance Corporation, they are certainly liable to pay the interest.

19. As rightly contended by the learned counsel appearing for the writ petitioners, the respondent-Insurance has no right to keep the amount for the period of 13 years, 9 years and 8 years, due to the writ petitioners and hence, the respondent-Insurance Corporation cannot be allowed to say that they are not liable for interest.

20. No doubt, the writ petitioners have claimed interest at the rate of 9% per annum but considering the facts and circumstances, this Court is inclined to award 7.5% per annum. Considering the above, this Court has no hesitation to hold that the respondent-Insurance Corporation is certainly liable to pay interest for the amounts paid on 03.02.2020 from the date of death of the writ petitioners' husbands with interest at 7.5% per annum till the date of payment.

21. In the result, these Writ Petitions are allowed and the impugned orders dated 23.03.2020 passed by the respondent-Insurance Corporation is hereby quashed. The respondent-Insurance Corporation is hereby directed to pay interest for the amounts of Rs.3,10,068/-, Rs.3,18,900/- and Rs.1,61,406/- paid on 03.02.2020 with interest at 7.5% per annum

from the date of death of the writ petitioners' husbands till the date of payment, within a period of four weeks from the date of receipt of a copy of this order. No costs.

12.08.2024

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

<u>To</u>

1. The Branch Manager,
   Life Insurance Corporation of India,
   Madurai Division, P & G.S.Unit,
   Jeevan Prakash, Bridge Station Road,
   Sellur, Madurai-625002.

K.MURALI SHANKAR,J.

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Pre-Delivery Common Order made in
W.P.(MD)Nos.1463, 1466 and 1467 of 2021

Dated : 12.08.2024