

W.P.(MD) No.16823 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On : 11.07.2025

Pronounced On : 18.07.2025

CORAM:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

W.P. (MD) No.16823 of 2016

and

W.M.P. (MD) No.12199 of 2016

Sekar (Died)
S/o.Muniyandi,
6/91, East Street,
Thiruppunavasal & Post,
Ponbethi Via,
Avudaiyarkovil Taluk,
Pudukkottai District.

1.Nagammal,
W/o.Late. Sekar,
No.6/91, East Street,
Thiruppunavasal and Post, Ponbethi Via,
Avudaiyarkovil Taliik, Pudukkottai District.

2.Radha,
D/o.Late. Sekar,
No.6/91, East Street,
Thiruppunavasal and Post, Ponbethi Via,
Avudaiyarkovil Taluk, Pudukkottai District.

(Pl and P2 are substituted vide Court
Order dated 13.07.2021 in
WMP(MD) No.12593/2020 in
WP(MD) No.16823/2016 by PDAJ)

... Petitioners



W.P.(MD) No.16823 of 2016

Vs.

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1. The Senior Divisional Manager,
Life Insurance Corporation of India,
39, Gandhiji Street,
Thanjavur - 1,
Thanjavur District.

2. The Enquiry Officer,
Divisional Office,
39, Gandhiji Street, ,
Thanjavur - 1,
Thanjavur District.

... Respondents

PRAYER in W.P.:

To issue a writ or order or any other writ in the nature of Writ of Certiorari, call for the records of the impugned final order dated 19.05.2016 issued by the 1st respondent and quash the same as arbitrary and illegal and thus render justice.

PRAYER IN W.M.P.:

To stay all further proceeding in the impugned final order dated 19.05.2016 issued by the 1st respondent pending disposal of this Writ Petition and thus render justice.

APPEARANCE OF PARTIES:

For Petitioners : Mr.K.Baalasundharam, Senior Counsel,
for M/s.KBS Law Associates
for Mr.P. Jamal Mohamed

For Respondents : Mr.K.Vinoharan
for Mr.G.Prabhu Rajadurai



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J U D G M E N T

Heard.

2. The original petitioner has since passed away. At the time of filing the writ petition, he was 57 years old and is reported to have died in the year 2020. His legal representatives have been brought on record. The petitioner had initially joined the respondent-Life Insurance Corporation of India as a sub-staff, and was subsequently promoted to the post of Record Clerk and thereafter to the post of Assistant.

3. Learned counsel for the petitioners submitted that the disciplinary action is vitiated for want of evidence. The alleged delinquency dates back to 2006, the charge memo was issued in 24.03.2007, but the second show cause notice was served only on 12.03.2016 - after nearly nine years - rendering the proceedings belated. The enquiry report and connected documents were not furnished despite request. The enquiry, conducted in a question-and-answer format, lacked procedural fairness and termed it “cinematic”. The key policyholder, Mariappan, was not examined, and it was the Branch Manager, who was allegedly responsible for the



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misappropriation. The petitioner, who only followed instructions, passed away in 2020; his legal heirs, now on record, seek the terminal benefits.

4. In response, learned counsel for the respondents submitted that the writ petition is not maintainable in view of the alternate remedy of appeal under relevant Act and Rules. The scope of judicial review is limited and no procedural violation is made out. There is no rejoinder to the specific denials in paragraph No.9 of the counter. It was submitted that the charge memo was issued on 24.03.2007, the explanation was submitted by the petitioner on 10.04.2007, the enquiry concluded on 23.04.2008, the second show cause was issued on 12.03.2016 and the petitioner gave his reply on 22.03.2016, and was removed from service by order dated 19.05.2016. The delay has been explained in para 10 of the counter and in fact the petitioner complained of no prejudice. The plea of delay is an afterthought, as the petitioner was in service and received full salary from 2008 to 2016 and participated in the proceedings throughout. Hence, the petition deserves dismissal.

5. It is seen that disciplinary proceedings were initiated against the petitioner by the first respondent on allegations of serious misconduct. The



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petitioner, as against the show cause notice, filed W.P.(MD) No. 6447 of 2016, seeking to challenge the initiation of such proceedings. However, he was unsuccessful in securing any interim relief, and the disciplinary proceedings continued. The current status or outcome of the said writ petition was not been disclosed to this Court. On accessing case status of this Court it is seen that the W.P.(MD)No.6447 of 2016 has closed with the following order:

“This writ petition has been filed challenging the show cause notice issued by the first respondent dated 12.03.2016.

2. When the matter is taken up for hearing today, the learned counsel appearing for the petitioner would submit that the petitioner was removed from service and hence, nothing survives in this writ petition for adjudication.

3. Recording the above said submission, this Writ Petition is closed. No costs. Consequently, the connected Miscellaneous Petition is closed.”

6. Thus, pursuant to the enquiry report and after affording due notice, the petitioner was removed from service by order dated 19.05.2016. The said order also directed recovery of a sum of Rs.1,04,434/- from the petitioner. It is this order that is impugned in the present writ petition. Upon issuance of notice by this Court, the first respondent has filed a counter affidavit.



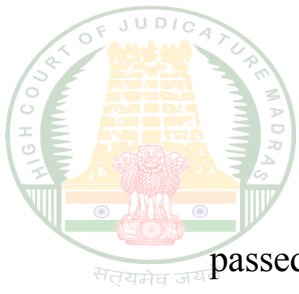
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7. The circumstances leading to the initiation of disciplinary proceedings against the petitioner and the eventual passing of the impugned order are detailed in the counter affidavit filed by the first respondent, the relevant portion of which is extracted below:

“7. I submit that in the said enquiry report, it was held that the charge No. 1 against the Petitioner stands established in respect of 5 policies out of 8 Policies and with regard to the charge No.2 & 3 relating to fabrications of records and causing disappearance of the records were also established vide the enquiry report and that the Petitioner by his reply dated 08/05/08 pleaded not guilty.

8. I submit that on the basis of the enquiry report and relevant records and by the enquiry conducted in accordance with the prescribed provision by providing the sufficient opportunities, the Petitioner was issued with second cause notice dated 12/03/16 to show cause why the provisionally proposed penalty of removal from service should not be imposed. Though the Petitioner is expected to submit his reply particularly when the jurisdiction of the Authority is not challenged, the Petitioner sought for the documents relied during enquiry particularly the deposition of witnesses and that the same was furnished to him. Subsequently Final order dated 19/05/16 was passed removing the Petitioner from service.”

8. The Petitioner in his typed set has enclosed the entire deposition recorded in the inquiry held against him. However, this court on a perusal of the same do not find any infirmity in the order passed by the 1st Respondent who after due consideration of the materials gathered had



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passed a considered order. The punishment imposed on the original
Petitioner does not call for any interference.

9. Hence, the Writ Petition will stand dismissed. However, there
will be no order as to costs. Consequently, connected Miscellaneous
Petition is closed.

18.07.2025

Index: Yes / No
Speaking Order / Non-speaking Order
Neutral Citation : Yes / No
LS

To

1. The Senior Divisional Manager,
Life Insurance Corporation of India,
39, Gandhiji Street,
Thanjavur - 1,
Thanjavur District.

2. The Enquiry Officer,
Divisional Office,
39, Gandhiji Street, ,
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DR. A.D. MARIA CLETE, J.

LS

Pre-delivery Judgment made in
W.P. (MD) No.16823 of 2016
and
W.M.P. (MD) No.12199 of 2016

18.07.2025