



WEB COPY



W.P. No.2868 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2026

CORAM:

THE HON'BLE MR. JUSTICE **M. DHANDAPANI**

W.P. No.2868 of 2024 and
WMP.No.3127 of 2024

K.Choodamani

... Petitioner

Vs

1.UNION OF INDIA,
REPRESENTED BY ITS SECRETARY, DEPARTMENT OF FERTILIZERS,
MINISTRY OF CHEMICALS AND FERTILIZERS, SHASTRI BHAWAN,
NEW DELHI - 110 001.

2.THE MANAGING DIRECTOR,
MADRAS FERTILIZERS LTD., MANALI,
CHENNAI - 600 068.

... Respondents

Prayer :

Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus, calling for the records relating to the order vide letter reference No. GM P & A/PF 0612/2023, dated 7.8.2023 passed by the 2nd Respondent and quash the same and consequently, direct the 2nd Respondent to re-determine the retirement benefits payable to the Petitioner's husband and pay the same to the Petitioner

For petitioner : Mr.K.Venkatesan



W.P. No.2868 of 2024

For respondents
For R1 : Mr.K.Ramanamoorthy,
Senior Panel Counsel

For R2 : Ms.Rita Chandrasekar
for M/s.Aiyar & Dolia

ORDER

This Writ Petition has been filed praying to quash the order vide letter reference No. GM P & A/PF 0612/2023, dated 7.8.2023 passed by the 2nd Respondent and consequently to direct the 2nd Respondent to re-determine the retirement benefits payable to the Petitioner's husband and pay the same to the Petitioner.

2. The learned counsel appearing for the petitioner would submit that the petitioner's husband namely S.Alwan had been employed in the second respondent company, a public sector undertaking coming under the first respondent Ministry and he rendered services in the second respondent company for more than two decades. However, the petitioner's husband was missing since 31.05.2001 and the petitioner could not trace her husband's whereabouts despite her best efforts. Since the petitioner could not trace her husband, she filed a suit in OS.No.360 of 2018 on the file of District Munsif Court, Ambattur for declaration declaring that the petitioner's husband attained



civil death. The District Munsif Court, Ambattur passed a judgment and degree dated 30.07.2009, declaring that the petitioner's husband died on 01.06.2008 after statutory period of seven years. Thereafter, the petitioner on the basis of the order passed by the trial court, filed a claim petition before the second respondent claiming death cum retirement benefits of the petitioner's husband. The second respondent disbursed Rs.3,94,925/- of provident fund on 26.07.2011, Gratuity Rs.1,28,000/- after deducting the amount for the loan availed by the petitioner's husband, LIC policy amount of Rs.3,09,047/- on 17.10.2012. However, the respondent did not provide terminal benefits to the petitioner thereby again she made a petition to the respondents to settle the terminal benefits including encashment of leave salary and other benefits. However, the same was not considered. Hence, the petitioner filed writ petition before this Court in WP.no.27281 of 2017 and this Court by its order dated 20.07.2023, issued direction to the second respondent-Managing Director to examine the representation and pass appropriate orders, pursuant to which the present impugned order has been passed as if the petitioner's husband was dismissed from service for his unauthorised absence. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would further



W.P. No.2868 of 2024

submit that admittedly the petitioner's husband entered service in the year 1971.

He was allegedly dismissed from service by the respondents in the year 2001 on the ground the petitioner's husband was unauthorisedly absent. However, for the person who was unauthorisedly absent, the respondents had to issue necessary notice either to the petitioner's husband or to the petitioner. Without conducting enquiry, they passed order of dismissal, that too the same was communicated in the impugned order and it is not sustainable. Further, the punishment of dismissal from service for unauthorised absence is highly disproportionate when the petitioner's husband rendered more than 30 years of service with the second respondent. Without mercy, they mechanically dismissed him denying the terminal benefits to the petitioner, which is not sustainable one. Accordingly, he prayed for appropriate orders.

4. Per contra, the learned counsel appearing for the second respondent would submit that the husband of the Petitioner was dismissed from the services of the Respondent Company on 18.01.2002 vide award of punishment dated 30.01.2002 as he did not report for duty from 31.05.2001 and was continuously absent in spite of several reminders sent to him to report for duty. Based on his order of dismissal, Employee's final clearance for settlement was processed and the net amount payable by the employee after adjustments amounts to



W.P. No.2868 of 2024

Rs.12,213/- was paid to the deceased employee. Further, he had an outstanding amount of Rs.1,24,231/- in addition to interest in his personal loan account and since the petitioner has given authorization dated 01.06.2011 to deduct the amount due to SBI and settle the balance to her, the same was done by the Respondent and balance was paid to the Respondent. The Petitioner also requested the management to keep the order of "Dismissal from service" dated 18.01.2002 in abeyance and not to give effect to the same so as to enable her to approach the competent Court after the statutory period of 7 years for a declaration that her husband was presumed dead and to produce the same so as to enable her to receive her eligible benefits. The petitioner, through a letter dated 05.10.2009, informed the management of a court order declaring her husband as deceased and requested the settlement of his terminal benefits. In response, the management, by letter dated 04.11.2009, requested her to submit a death certificate, legal heirship certificate, and a No Objection Certificate (NOC) from the legal heirs in her favor to facilitate the settlement process. It is pertinent to note that the petitioner had also submitted an NOC dated 01.06.2011 for the settlement of the outstanding SBI loan. During the processing of his gratuity claims, it was observed that the witness signature was not affixed on the requisite forms and consequently, the management issued a letter dated 21.07.2011 to the petitioner, requesting her to take necessary action. Further the following terminal benefits were paid to the petitioner upon receipt



W.P. No.2868 of 2024

of necessary documents:

After receiving NOC/clarifications, Provident fund was paid	Rs.3,94,925/-	26.07.2011
Gratuity settlement	Rs.1,84,387/-	05.09.2011
Payment made towards SBI loan	Rs.1,28,000/-	05.09.2011
Death claim settlement by LIC	Directly paid by LIC to the nominee	17.10.2012

5. Heard, the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

6. The facts of the case are not in dispute. Admittedly, the petitioner's husband entered service in the year 1971. Thereafter, he went on missing in the year 2001 and thereby the petitioner, after lapse of seven years, filed suit for declaration declaring the petitioner's husband's civil death and after mandatory period, civil court granted decree in favour of the petitioner and thereafter the petitioner approached the second respondent for settlement of terminal benefits. Though the petitioner approached the respondents for terminal benefits in the year 2007, however, the provident fund, gratuity, LIC policy amount had been settled in the year 2011-2012. There was delay of three years and thereafter, the present impugned order has been issued to the petitioner on 07.08.2023 as if the



petitioner's husband was dismissed from service and no detail was assigned to the impugned order. Even assuming that the person, who rendered 23 years of service, was dismissed from service on the ground of unauthorised absence, it is highly disproportionate.

7. The precedents on the issue of interference with the punishment imposed has been oft considered by the Courts and it has been the consistent view of the Courts that it is always within the domain of the disciplinary authority to decide on the punishment to be imposed on the delinquent, which should be proportionate to the act of the delinquent. Only when the punishment is disproportionate and shocking to the conscience, should the courts interfere in the same in exercise of powers under Article 226. In ***Prem Nath Bali – Vs - High Court of Delhi (2015 (16) SCC 415)***, the Supreme Court held as under :-

“20. It is a settled principle of law that once the charges leveled against the delinquent employee are proved then it is for the appointing authority to decide as to what punishment should be imposed on the delinquent employee as per the Rules. The appointing authority, keeping in view the nature and gravity of the charges, findings of the inquiry officer, entire service record of the delinquent employee and all relevant factors relating to the delinquent, exercised its discretion and then imposed the punishment as provided in the Rules.



21. *Once such discretion is exercised by the appointing authority in inflicting the punishment (whether minor or major) then the courts are slow to interfere in the quantum of punishment and only in rare and appropriate case substitutes the punishment. Such power is exercised when the court finds that the delinquent employee is able to prove that the punishment inflicted on him is wholly unreasonable, arbitrary and disproportionate to the gravity of the proved charges thereby shocking the conscience of the court or when it is found to be in contravention of the Rules. The Court may, in such cases, remit the case to the appointing authority for imposing any other punishment as against what was originally awarded to the delinquent employee by the appointing authority as per the Rules or may substitute the punishment by itself instead of remitting to the appointing authority.*”

(Emphasis Supplied)

8. From the ratio laid down by the Apex Court above, it is crystal clear that the power to interfere with the punishment should be exercised only if the delinquent employee is able to prove that the punishment inflicted on him is wholly unreasonable, arbitrary and disproportionate to the gravity of the proved charges and, thereby, shocking the conscience of the Court or if it is in contravention of the Rules.



W.P. No.2868 of 2024

9. Therefore, the impugned order is hereby set aside. The second respondent is directed to convert the dismissal from service and to treat the same as 'the petitioner's husband was compulsorily retired from service on 31.05.2001 and to settle the terminal benefits excluding the benefits already settled in favour of them within a period of six weeks from the date of receipt of this order, failing which 9% interest will follow.

10. With the above direction, this writ petition stands allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

30.01.2026

Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes/No
lok



WEB COPY



W.P. No.2868 of 2024

M. DHANDAPANI, J.

lok

To

1.UNION OF INDIA,
REPRESENTED BY ITS SECRETARY, DEPARTMENT OF FERTILIZERS,
MINISTRY OF CHEMICALS AND FERTILIZERS, SHASTRI BHAWAN,
NEW DELHI - 110 001.

2.THE MANAGING DIRECTOR,
MADRAS FERTILIZERS LTD., MANALI,
CHENNAI - 600 068.

W.P. No.2868 of 2024

30.01.2026